

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 288
HOUSE BILL 2275

AN ACT

AMENDING SECTION 32-2065, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 19.1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; AMENDING SECTIONS 36-2901.03 AND 36-2912, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 29, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2912.04; AMENDING TITLE 36, CHAPTER 29, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 36-2981.01; REPEALING SECTION 41-3008.16, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3016.28; RELATING TO HEALTH AND WELFARE BUDGET RECONCILIATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 32-2065, Arizona Revised Statutes, is amended to
3 read:

4 32-2065. Board of psychologist examiners fund

5 A. The board of psychologist examiners fund is established.

6 B. Except as provided in ~~section~~ SECTIONS 32-2081 AND 32-2091.09,
7 SUBSECTION I, pursuant to sections 35-146 and 35-147, the board shall deposit
8 ten per cent of all monies collected pursuant to this chapter in the state
9 general fund and deposit the remaining ninety per cent in the board of
10 psychologist examiners fund.

11 C. All monies deposited in the board of psychologist examiners fund
12 are subject to section 35-143.01.

13 Sec. 2. Title 32, chapter 19.1, Arizona Revised Statutes, is amended
14 by adding article 4, to read:

15 ARTICLE 4. BEHAVIOR ANALYSTS

16 32-2091. Definitions

17 A. IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

18 1. "ACTIVE LICENSE" MEANS A CURRENT LICENSE ISSUED BY THE BOARD TO A
19 PERSON LICENSED PURSUANT TO THIS ARTICLE.

20 2. "ADEQUATE RECORDS" MEANS RECORDS THAT CONTAIN, AT A MINIMUM,
21 SUFFICIENT INFORMATION TO IDENTIFY THE CLIENT, THE DATES OF SERVICE, THE FEE
22 FOR SERVICE, THE PAYMENTS FOR SERVICE AND THE TYPE OF SERVICE GIVEN AND
23 COPIES OF ANY REPORTS THAT MAY HAVE BEEN MADE.

24 3. "BEHAVIOR ANALYSIS" MEANS THE DESIGN, IMPLEMENTATION AND EVALUATION
25 OF SYSTEMATIC ENVIRONMENTAL MODIFICATIONS BY A BEHAVIOR ANALYST TO PRODUCE
26 SOCIALLY SIGNIFICANT IMPROVEMENTS IN HUMAN BEHAVIOR BASED ON THE PRINCIPLES
27 OF BEHAVIOR IDENTIFIED THROUGH THE EXPERIMENTAL ANALYSIS OF BEHAVIOR.
28 BEHAVIOR ANALYSIS DOES NOT INCLUDE COGNITIVE THERAPIES OR PSYCHOLOGICAL
29 TESTING, NEUROPSYCHOLOGY, PSYCHOTHERAPY, SEX THERAPY, PSYCHOANALYSIS,
30 HYPNOTHERAPY AND LONG-TERM COUNSELING AS TREATMENT MODALITIES.

31 4. "BEHAVIOR ANALYSIS SERVICES" MEANS THE USE OF BEHAVIOR ANALYSIS TO
32 ASSIST A PERSON TO LEARN NEW BEHAVIOR, INCREASE EXISTING BEHAVIOR, REDUCE
33 EXISTING BEHAVIOR AND EMIT BEHAVIOR UNDER PRECISE ENVIRONMENTAL CONDITIONS.
34 BEHAVIOR ANALYSIS INCLUDES BEHAVIORAL PROGRAMMING AND BEHAVIORAL PROGRAMS.

35 5. "BEHAVIOR ANALYST" MEANS A PERSON WHO IS LICENSED PURSUANT TO THIS
36 ARTICLE TO PRACTICE BEHAVIOR ANALYSIS.

37 6. "CLIENT" MEANS:

38 (a) A PERSON OR ENTITY THAT RECEIVES BEHAVIOR ANALYSIS SERVICES.

39 (b) A CORPORATE ENTITY, A GOVERNMENTAL ENTITY OR ANY OTHER
40 ORGANIZATION THAT HAS A PROFESSIONAL CONTRACT TO PROVIDE SERVICES OR BENEFITS
41 PRIMARILY TO AN ORGANIZATION RATHER THAN TO AN INDIVIDUAL.

42 (c) AN INDIVIDUAL'S LEGAL GUARDIAN FOR DECISION MAKING PURPOSES,
43 EXCEPT THAT THE INDIVIDUAL IS THE CLIENT FOR ISSUES THAT DIRECTLY AFFECT THE
44 INDIVIDUAL'S PHYSICAL OR EMOTIONAL SAFETY AND ISSUES THAT THE LEGAL GUARDIAN
45 AGREES TO SPECIFICALLY RESERVE TO THE INDIVIDUAL.

1 7. "EXPLOIT" MEANS AN ACTION BY A BEHAVIOR ANALYST WHO TAKES UNDUE
2 ADVANTAGE OF THE PROFESSIONAL ASSOCIATION WITH A CLIENT, STUDENT OR
3 SUPERVISEE FOR THE ADVANTAGE OR PROFIT OF THE BEHAVIOR ANALYST.

4 8. "HEALTH CARE INSTITUTION" MEANS A FACILITY THAT IS LICENSED
5 PURSUANT TO TITLE 36, CHAPTER 4, ARTICLE 1, A PERSON WHO IS AUTHORIZED TO
6 TRANSACT DISABILITY INSURANCE PURSUANT TO TITLE 20, CHAPTER 6, ARTICLE 4 OR 5
7 OR A PERSON WHO IS ISSUED A CERTIFICATE OF AUTHORITY PURSUANT TO TITLE 20,
8 CHAPTER 4, ARTICLE 9.

9 9. "LETTER OF CONCERN" MEANS AN ADVISORY LETTER TO NOTIFY A LICENSEE
10 THAT WHILE THERE IS INSUFFICIENT EVIDENCE TO SUPPORT DISCIPLINARY ACTION THE
11 BOARD BELIEVES THE LICENSEE SHOULD MODIFY OR ELIMINATE CERTAIN PRACTICES AND
12 THAT CONTINUATION OF THE ACTIVITIES THAT LED TO THE INFORMATION BEING
13 SUBMITTED TO THE BOARD MAY RESULT IN ACTION AGAINST THE LICENSE.

14 10. "SUPERVISEE" MEANS A PERSON WHO ACTS UNDER THE EXTENDED AUTHORITY
15 OF A BEHAVIOR ANALYST TO PROVIDE BEHAVIORAL SERVICES AND INCLUDES A PERSON
16 WHO IS IN TRAINING TO PROVIDE THESE SERVICES.

17 11. "UNPROFESSIONAL CONDUCT" INCLUDES THE FOLLOWING ACTIVITIES, WHETHER
18 OCCURRING IN THIS STATE OR ELSEWHERE:

19 (a) OBTAINING A FEE BY FRAUD OR MISREPRESENTATION.

20 (b) BETRAYING PROFESSIONAL CONFIDENCES.

21 (c) MAKING OR USING STATEMENTS OF A CHARACTER TENDING TO DECEIVE OR
22 MISLEAD.

23 (d) AIDING OR ABETTING A PERSON WHO IS NOT LICENSED PURSUANT TO THIS
24 ARTICLE IN REPRESENTING THAT PERSON AS A BEHAVIOR ANALYST.

25 (e) GROSS NEGLIGENCE IN THE PRACTICE OF A BEHAVIOR ANALYST.

26 (f) SEXUAL INTIMACIES OR SEXUAL INTERCOURSE WITH A CURRENT CLIENT OR A
27 SUPERVISEE OR WITH A FORMER CLIENT WITHIN TWO YEARS AFTER THE CESSATION OR
28 TERMINATION OF TREATMENT. FOR THE PURPOSES OF THIS SUBDIVISION, "SEXUAL
29 INTERCOURSE" HAS THE SAME MEANING PRESCRIBED IN SECTION 13-1401.

30 (g) ENGAGING OR OFFERING TO ENGAGE AS A BEHAVIOR ANALYST IN ACTIVITIES
31 THAT ARE NOT CONGRUENT WITH THE BEHAVIOR ANALYST'S PROFESSIONAL EDUCATION,
32 TRAINING AND EXPERIENCE.

33 (h) FAILING OR REFUSING TO MAINTAIN AND RETAIN ADEQUATE BUSINESS,
34 FINANCIAL OR PROFESSIONAL RECORDS PERTAINING TO THE BEHAVIOR ANALYSIS
35 SERVICES PROVIDED TO A CLIENT.

36 (i) COMMITTING A FELONY, WHETHER OR NOT INVOLVING MORAL TURPITUDE, OR
37 A MISDEMEANOR INVOLVING MORAL TURPITUDE. IN EITHER CASE, CONVICTION BY A
38 COURT OF COMPETENT JURISDICTION OR A PLEA OF NO CONTEST IS CONCLUSIVE
39 EVIDENCE OF THE COMMISSION.

40 (j) MAKING A FRAUDULENT OR UNTRUE STATEMENT TO THE BOARD OR ITS
41 INVESTIGATORS, STAFF OR CONSULTANTS.

42 (k) VIOLATING ANY FEDERAL OR STATE LAW THAT RELATES TO THE PRACTICE OF
43 BEHAVIOR ANALYSIS OR TO OBTAIN A LICENSE TO PRACTICE BEHAVIOR ANALYSIS.

44 (l) PRACTICING BEHAVIOR ANALYSIS WHILE IMPAIRED OR INCAPACITATED TO
45 THE EXTENT AND IN A MANNER THAT JEOPARDIZES THE WELFARE OF A CLIENT OR
46 RENDERS THE SERVICES PROVIDED INEFFECTIVE.

1 (m) USING FRAUD, MISREPRESENTATION OR DECEPTION TO OBTAIN OR ATTEMPT
2 TO OBTAIN A BEHAVIOR ANALYSIS LICENSE OR TO PASS OR ATTEMPT TO PASS A
3 BEHAVIOR ANALYSIS LICENSING EXAMINATION OR IN ASSISTING ANOTHER PERSON TO DO
4 SO.

5 (n) UNPROFESSIONAL CONDUCT IN ANOTHER JURISDICTION THAT RESULTED IN
6 CENSURE, PROBATION OR A CIVIL PENALTY OR IN THE DENIAL, SUSPENSION,
7 RESTRICTION OR REVOCATION OF A CERTIFICATE OR LICENSE TO PRACTICE AS A
8 BEHAVIOR ANALYST.

9 (o) PROVIDING SERVICES THAT ARE UNNECESSARY OR UNSAFE OR OTHERWISE
10 ENGAGING IN ACTIVITIES AS A BEHAVIOR ANALYST THAT ARE UNPROFESSIONAL BY
11 CURRENT STANDARDS OF PRACTICE.

12 (p) FALSELY OR FRAUDULENTLY CLAIMING TO HAVE PERFORMED A PROFESSIONAL
13 SERVICE, CHARGING FOR A SERVICE OR REPRESENTING A SERVICE AS THE LICENSEE'S
14 OWN IF THE LICENSEE HAS NOT RENDERED THE SERVICE OR ASSUMED SUPERVISORY
15 RESPONSIBILITY FOR THE SERVICE.

16 (q) REPRESENTING ACTIVITIES OR SERVICES AS BEING PERFORMED UNDER THE
17 LICENSEE'S SUPERVISION IF THE BEHAVIOR ANALYST HAS NOT ASSUMED RESPONSIBILITY
18 FOR THEM AND HAS NOT EXERCISED CONTROL, OVERSIGHT AND REVIEW.

19 (r) FAILING TO OBTAIN A CLIENT'S INFORMED AND WRITTEN CONSENT TO
20 RELEASE PERSONAL OR OTHERWISE CONFIDENTIAL INFORMATION TO ANOTHER PARTY
21 UNLESS THE RELEASE IS OTHERWISE AUTHORIZED BY LAW.

22 (s) FAILING TO MAKE CLIENT RECORDS IN THE BEHAVIOR ANALYST'S
23 POSSESSION PROMPTLY AVAILABLE TO ANOTHER BEHAVIOR ANALYST ON RECEIPT OF
24 PROPER AUTHORIZATION TO DO SO FROM THE CLIENT, A MINOR CLIENT'S PARENT, THE
25 CLIENT'S LEGAL GUARDIAN OR THE CLIENT'S AUTHORIZED REPRESENTATIVE OR FAILING
26 TO COMPLY WITH TITLE 12, CHAPTER 13, ARTICLE 7.1.

27 (t) FAILING TO TAKE REASONABLE STEPS TO INFORM OR PROTECT A CLIENT'S
28 INTENDED VICTIM AND INFORM THE PROPER LAW ENFORCEMENT OFFICIALS IF THE
29 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING
30 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
31 BODILY HARM ON ANOTHER PERSON.

32 (u) FAILING TO TAKE REASONABLE STEPS TO PROTECT A CLIENT IF THE
33 BEHAVIOR ANALYST BECOMES AWARE DURING THE COURSE OF PROVIDING OR SUPERVISING
34 BEHAVIOR ANALYSIS SERVICES THAT A CLIENT INTENDS OR PLANS TO INFLICT SERIOUS
35 BODILY HARM ON SELF.

36 (v) ABANDONING OR NEGLECTING A CLIENT IN NEED OF IMMEDIATE CARE
37 WITHOUT MAKING SUITABLE ARRANGEMENTS FOR CONTINUATION OF THE CARE.

38 (w) ENGAGING IN DIRECT OR INDIRECT PERSONAL SOLICITATION OF CLIENTS
39 THROUGH THE USE OF COERCION, DURESS, UNDUE INFLUENCE, COMPULSION OR
40 INTIMIDATION PRACTICES.

41 (x) ENGAGING IN FALSE, DECEPTIVE OR MISLEADING ADVERTISING.

42 (y) EXPLOITING A CLIENT, STUDENT OR SUPERVISEE.

43 (z) FAILING TO REPORT INFORMATION TO THE BOARD REGARDING A POSSIBLE
44 ACT OF UNPROFESSIONAL CONDUCT COMMITTED BY ANOTHER BEHAVIOR ANALYST WHO IS
45 LICENSED PURSUANT TO THIS ARTICLE UNLESS THIS REPORTING VIOLATES THE BEHAVIOR
46 ANALYST'S CONFIDENTIAL RELATIONSHIP WITH A CLIENT PURSUANT TO THIS ARTICLE.

1 A BEHAVIOR ANALYST WHO REPORTS OR PROVIDES INFORMATION TO THE BOARD IN GOOD
2 FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES.

3 (aa) VIOLATING A FORMAL BOARD ORDER, CONSENT AGREEMENT, TERM OF
4 PROBATION OR STIPULATED AGREEMENT ISSUED UNDER THIS ARTICLE.

5 (bb) FAILING TO FURNISH INFORMATION IN A TIMELY MANNER TO THE BOARD OR
6 ITS INVESTIGATORS OR REPRESENTATIVES IF REQUESTED OR SUBPOENAED BY THE BOARD
7 AS PRESCRIBED BY THIS ARTICLE.

8 (cc) FAILING TO MAKE AVAILABLE TO A CLIENT OR TO THE CLIENT'S
9 DESIGNATED REPRESENTATIVE, ON WRITTEN REQUEST, A COPY OF THE CLIENT'S RECORD,
10 EXCLUDING RAW TEST DATA, PSYCHOMETRIC TESTING MATERIALS AND OTHER INFORMATION
11 AS PROVIDED BY LAW.

12 (dd) VIOLATING AN ETHICAL STANDARD ADOPTED BY THE BOARD.

13 B. THE BOARD SHALL NOT CONSIDER A COMPLAINT AGAINST A BEHAVIOR ANALYST
14 ARISING OUT OF A JUDICIALLY ORDERED EVALUATION OF A PERSON CHARGED WITH
15 VIOLATING ANY PROVISION OF TITLE 13, CHAPTER 14 TO PRESENT A CHARGE OF
16 UNPROFESSIONAL CONDUCT UNLESS THE COURT ORDERING THE EVALUATION HAS FOUND A
17 SUBSTANTIAL BASIS TO REFER THE COMPLAINT FOR CONSIDERATION BY THE BOARD.

18 32-2091.01. Fees

19 A. THE BOARD, BY A FORMAL VOTE, SHALL ESTABLISH FEES FOR THE FOLLOWING
20 RELATING TO THE LICENSURE OF BEHAVIOR ANALYSTS:

- 21 1. AN APPLICATION FOR AN ACTIVE LICENSE.
- 22 2. AN APPLICATION FOR A TEMPORARY LICENSE.
- 23 3. RENEWAL OF AN ACTIVE LICENSE.
- 24 4. ISSUANCE OF AN INITIAL LICENSE.

25 B. THE BOARD MAY CHARGE ADDITIONAL FEES FOR SERVICES IT DEEMS
26 NECESSARY AND APPROPRIATE TO CARRY OUT THIS ARTICLE. THESE FEES SHALL NOT
27 EXCEED THE ACTUAL COST OF PROVIDING THE SERVICE.

28 C. THE BOARD SHALL NOT REFUND FEES EXCEPT AS OTHERWISE PROVIDED IN
29 THIS ARTICLE. ON SPECIAL REQUEST AND FOR GOOD CAUSE, THE BOARD MAY RETURN
30 THE LICENSE RENEWAL FEE.

31 32-2091.02. Qualifications of applicant

32 BEGINNING JANUARY 1, 2010, A PERSON WHO WISHES TO PRACTICE AS A
33 BEHAVIOR ANALYST MUST BE LICENSED PURSUANT TO THIS ARTICLE. AN APPLICANT FOR
34 LICENSURE MUST MEET ALL OF THE FOLLOWING REQUIREMENTS:

- 35 1. SUBMIT AN APPLICATION AS PRESCRIBED BY THE BOARD.
- 36 2. BE AT LEAST TWENTY-ONE YEARS OF AGE.
- 37 3. BE OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
38 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.
- 39 4. PAY ALL APPLICABLE FEES PRESCRIBED BY THE BOARD.
- 40 5. HAVE THE PHYSICAL AND MENTAL CAPABILITY TO SAFELY AND COMPETENTLY
41 ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.
- 42 6. NOT HAVE COMMITTED ANY ACT OR ENGAGED IN ANY CONDUCT THAT WOULD
43 CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSEE PURSUANT TO
44 THIS ARTICLE.

45 7. NOT HAVE HAD A PROFESSIONAL LICENSE OR CERTIFICATE REFUSED,
46 REVOKED, SUSPENDED OR RESTRICTED IN ANY REGULATORY JURISDICTION IN THE UNITED

1 STATES OR IN ANOTHER COUNTRY FOR REASONS THAT RELATE TO UNPROFESSIONAL
2 CONDUCT. IF THE BOARD FINDS THAT THE APPLICANT COMMITTED AN ACT OR ENGAGED
3 IN CONDUCT THAT WOULD CONSTITUTE GROUNDS FOR DISCIPLINARY ACTION IN THIS
4 STATE, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CONDUCT HAS
5 BEEN CORRECTED, MONITORED AND RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED,
6 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT MITIGATING CIRCUMSTANCES
7 EXIST THAT PREVENT ITS RESOLUTION.

8 8. NOT HAVE VOLUNTARILY SURRENDERED A LICENSE OR CERTIFICATE IN
9 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR IN ANOTHER COUNTRY
10 WHILE UNDER INVESTIGATION FOR REASONS THAT RELATE TO UNPROFESSIONAL CONDUCT.
11 IF ANOTHER JURISDICTION HAS TAKEN DISCIPLINARY ACTION AGAINST AN APPLICANT,
12 THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT THE CAUSE FOR THE ACTION
13 WAS CORRECTED AND THE MATTER RESOLVED. IF THE MATTER HAS NOT BEEN RESOLVED
14 BY THAT JURISDICTION, THE BOARD SHALL DETERMINE TO ITS SATISFACTION THAT
15 MITIGATING CIRCUMSTANCES EXIST THAT PREVENT ITS RESOLUTION.

16 9. NOT HAVE A COMPLAINT, ALLEGATION OR INVESTIGATION PENDING BEFORE
17 ANOTHER REGULATORY JURISDICTION IN THE UNITED STATES OR ANOTHER COUNTRY THAT
18 RELATES TO UNPROFESSIONAL CONDUCT. IF AN APPLICANT HAS ANY SUCH COMPLAINTS,
19 ALLEGATIONS OR INVESTIGATIONS PENDING, THE BOARD SHALL SUSPEND THE
20 APPLICATION PROCESS AND MAY NOT ISSUE OR DENY A LICENSE TO THE APPLICANT
21 UNTIL THE COMPLAINT, ALLEGATION OR INVESTIGATION IS RESOLVED.

22 32-2091.03. Educational and training qualifications for
23 licensure

24 A. AN APPLICANT FOR LICENSURE AS A BEHAVIOR ANALYST MUST:

25 1. HAVE A GRADUATE DEGREE, MASTER'S DEGREE OR DOCTORAL DEGREE FROM AN
26 ACCREDITED COLLEGE OR UNIVERSITY OR INSTITUTION OF HIGHER LEARNING ACCREDITED
27 BY A RECOGNIZED ACCREDITING AGENCY.

28 2. IF THE APPLICANT COMPLETES A DEGREE, COURSEWORK AND WORK EXPERIENCE
29 REQUIREMENTS AFTER JANUARY 1, 2000, COMPLETE A MINIMUM OF ONE THOUSAND FIVE
30 HUNDRED HOURS OF SUPERVISED WORK EXPERIENCE OR INDEPENDENT FIELDWORK IN THE
31 PRACTICE OF APPLIED BEHAVIOR ANALYSIS IN NOT LESS THAN TWELVE MONTHS.

32 3. HAVE AS PART OF OR IN ADDITION TO THE COURSEWORK REQUIRED FOR THE
33 GRADUATE DEGREE AT LEAST TWO HUNDRED TWENTY-FIVE CLASSROOM HOURS OF SPECIFIC
34 GRADUATE LEVEL INSTRUCTION THAT MEET NATIONALLY RECOGNIZED STANDARDS FOR
35 BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD.

36 4. HAVE A MINIMUM OF ONE THOUSAND FIVE HUNDRED HOURS OF SUPERVISED
37 WORK EXPERIENCE AS A BEHAVIOR ANALYST ENGAGED IN TASKS THAT MEET NATIONALLY
38 RECOGNIZED STANDARDS FOR BEHAVIOR ANALYSTS AS DETERMINED BY THE BOARD. THE
39 SUPERVISED WORK EXPERIENCE HOURS MUST BE COMPLETED AFTER THE APPLICANT
40 COMPLETES THE REQUIRED COURSEWORK PRESCRIBED PURSUANT TO PARAGRAPH 3 OF THIS
41 SUBSECTION.

42 B. THE SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,
43 PARAGRAPH 4 MUST INCLUDE THE FOLLOWING:

44 1. CONDUCTING BEHAVIORAL ASSESSMENTS AND ASSESSMENT ACTIVITIES RELATED
45 TO THE NEED FOR BEHAVIORAL INTERVENTIONS.

1 2. DESIGNING, IMPLEMENTING AND MONITORING BEHAVIOR ANALYSIS PROGRAMS
2 FOR CLIENTS.

3 3. OVERSEEING THE IMPLEMENTATION OF BEHAVIOR ANALYSIS PROGRAMS BY
4 OTHERS.

5 4. OTHER ACTIVITIES NORMALLY PERFORMED BY A BEHAVIOR ANALYST THAT ARE
6 DIRECTLY RELATED TO BEHAVIOR ANALYSIS, SUCH AS ATTENDING PLANNING MEETINGS
7 REGARDING THE BEHAVIOR ANALYSIS PROGRAM, RESEARCHING THE LITERATURE RELATED
8 TO THE PROGRAM, TALKING TO INDIVIDUALS ABOUT THE PROGRAM AND ANY ADDITIONAL
9 ACTIVITIES RELATED TO OVERSIGHT OF BEHAVIORAL PROGRAMMING SUCH AS BEHAVIOR
10 ANALYST SUPERVISION ISSUES OR EVALUATION OF BEHAVIOR ANALYSTS' PERFORMANCE.

11 C. THE FOLLOWING ACTIVITIES ARE NOT CONSIDERED SUPERVISED WORK
12 EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A, PARAGRAPH 4:

- 13 1. ATTENDING MEETINGS WITH LITTLE OR NO BEHAVIOR ANALYTIC CONTENT.
14 2. PROVIDING INTERVENTIONS THAT ARE NOT BASED IN BEHAVIOR ANALYSIS.
15 3. DOING NONBEHAVIOR ANALYTIC ADMINISTRATIVE ACTIVITIES.
16 4. ANY OTHER ACTIVITIES THAT ARE NOT DIRECTLY RELATED TO BEHAVIOR
17 ANALYSIS.

18 D. FOR SUPERVISED WORK EXPERIENCE REQUIRED PURSUANT TO SUBSECTION A,
19 PARAGRAPH 4, THE SUPERVISOR MUST OBSERVE THE APPLICANT ENGAGING IN BEHAVIOR
20 ANALYTIC ACTIVITIES IN THE NATURAL ENVIRONMENT AT LEAST ONCE EVERY TWO WEEKS.
21 THIS OBSERVATION MAY BE CONDUCTED BY WEB CAMERAS, VIDEOTAPE,
22 VIDEOCONFERENCING OR SIMILAR MEANS INSTEAD OF THE SUPERVISOR BEING PHYSICALLY
23 PRESENT. SUPERVISION MAY BE CONDUCTED IN SMALL GROUPS OF TEN OR FEWER
24 PARTICIPANTS FOR NOT MORE THAN HALF OF THE TOTAL SUPERVISED HOURS IN EACH
25 SUPERVISORY PERIOD. THE REMAINDER OF THE TOTAL SUPERVISION HOURS IN EACH
26 SUPERVISORY PERIOD MUST CONSIST OF DIRECT ONE-TO-ONE CONTACT. SUPERVISION
27 HOURS MAY BE COUNTED TOWARD THE TOTAL NUMBER OF EXPERIENCE HOURS REQUIRED.

28 E. A SUPERVISOR CONDUCTING THE SUPERVISED WORK EXPERIENCE PURSUANT TO
29 SUBSECTION D SHALL NOT BE THE APPLICANT'S RELATIVE, SUBORDINATE OR EMPLOYEE
30 DURING THE EXPERIENCE PERIOD. THE SUPERVISOR IS NOT AN EMPLOYEE OF THE
31 APPLICANT IF THE ONLY COMPENSATION RECEIVED BY THE SUPERVISOR FROM THE
32 APPLICANT CONSISTS OF PAYMENT FOR SUPERVISION. A SUPERVISOR MUST BE ONE OF
33 THE FOLLOWING:

34 1. A LICENSED BEHAVIOR ANALYST WHO MEETS REQUIREMENTS FOR LICENSURE
35 PURSUANT TO SUBSECTION A.

36 2. A BEHAVIOR ANALYST WHO IS CERTIFIED BY A NATIONALLY RECOGNIZED
37 BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD AND WHOSE
38 CERTIFICATION IS IN GOOD STANDING.

39 3. AN INDIVIDUAL WHO HAS APPLIED AND BEEN APPROVED TO TAKE A
40 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION EXAMINATION AS
41 DETERMINED BY THE BOARD.

42 4. AN INDIVIDUAL PROVIDING SUPERVISION BEFORE SEPTEMBER 1, 2006.

43 F. AN APPLICANT MAY SUBMIT A WRITTEN REQUEST TO THE BOARD FOR AN
44 EXEMPTION FROM THE REQUIREMENT PRESCRIBED IN SUBSECTION E. THE REQUEST MUST
45 INCLUDE THE NAME OF THE BEHAVIOR ANALYST PROPOSED BY THE APPLICANT TO ACT AS
46 THE CLINICAL SUPERVISOR, A COPY OF THE PROPOSED CLINICAL SUPERVISOR'S

1 TRANSCRIPT AND CURRICULUM VITAE AND ANY ADDITIONAL DOCUMENTATION REQUESTED BY
2 THE BOARD. THE BOARD SHALL REVIEW THE SUPERVISION EXEMPTION REQUEST TO
3 DETERMINE IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
4 AND EXPERIENCE TO PROVIDE SUPERVISION ACCEPTABLE FOR BEHAVIOR ANALYST
5 LICENSURE. IF THE PROPOSED SUPERVISOR HAS THE NECESSARY EDUCATION, TRAINING
6 AND EXPERIENCE, THE BOARD SHALL GRANT THE SUPERVISION EXEMPTION REQUEST. THE
7 BOARD SHALL NOT GRANT AN EXEMPTION REQUEST FOR AN UNLICENSED CLINICAL
8 SUPERVISOR PROVIDING CLINICAL SUPERVISION IN THIS STATE AFTER JULY 1, 2010,
9 EXCEPT THAT AN EXEMPTION MAY BE GRANTED BY THE BOARD IF THE CLINICAL
10 SUPERVISOR HOLDS A CURRENT NATIONAL CERTIFICATION FROM A NATIONALLY
11 RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY THE BOARD.

12 G. AN INDIVIDUAL WHO COMPLETED THE DEGREE, COURSEWORK OR EXPERIENCE
13 BEFORE JANUARY 1, 2000 MAY HAVE SUPERVISED WORK EXPERIENCE OR CORE SPECIFIED
14 COURSEWORK THAT WAS ACCRUED IN A SETTING OUTSIDE OF A COLLEGE OR UNIVERSITY
15 PROGRAM IF THE FOLLOWING CONDITIONS ARE MET:

16 1. THE ACQUIRED COURSEWORK OR SUPERVISED WORK EXPERIENCE WAS ACQUIRED
17 AFTER THE GRADUATE DEGREE AND BEFORE JANUARY 1, 2000.

18 2. THE APPLICANT HAS MET THE REQUIREMENTS FOR AND RECEIVED THE
19 CERTIFICATION CREDENTIAL FROM A NATIONALLY RECOGNIZED BEHAVIOR ANALYST
20 CERTIFICATION BOARD AS DETERMINED BY THE BOARD.

21 H. THE BOARD MAY PRESCRIBE BY RULE ADDITIONAL REQUIREMENTS RELATING TO
22 EDUCATION AND TRAINING.

23 32-2091.04. Reciprocity

24 THE BOARD MAY ISSUE A LICENSE TO A PERSON AS A BEHAVIOR ANALYST IF THE
25 PERSON IS LICENSED OR CERTIFIED BY ANOTHER STATE REGULATORY AGENCY AT AN
26 EQUIVALENT OR HIGHER PRACTICE LEVEL AS DETERMINED BY THE BOARD, PAYS THE FEE
27 PRESCRIBED BY THE BOARD AND MEETS ALL OF THE FOLLOWING REQUIREMENTS:

28 1. SUBMITS A WRITTEN APPLICATION PRESCRIBED BY THE BOARD.

29 2. IS OF GOOD MORAL CHARACTER. THE BOARD'S STANDARD TO DETERMINE GOOD
30 MORAL CHARACTER SHALL NOT VIOLATE FEDERAL DISCRIMINATION LAWS.

31 3. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF OF INITIAL LICENSURE OR
32 CERTIFICATION AT AN EQUIVALENT DESIGNATION FOR WHICH THE APPLICANT IS SEEKING
33 LICENSURE IN THIS STATE AND PROOF THAT THE LICENSE OR CERTIFICATE IS CURRENT
34 AND IN GOOD STANDING.

35 4. DOCUMENTS TO THE BOARD'S SATISFACTION PROOF THAT ANY OTHER LICENSE
36 OR CERTIFICATE ISSUED TO THE APPLICANT BY ANOTHER STATE HAS NOT BEEN
37 SUSPENDED OR REVOKED. IF A LICENSEE OR CERTIFICATE HOLDER HAS BEEN SUBJECTED
38 TO ANY OTHER DISCIPLINARY ACTION, THE BOARD MAY ASSESS THE MAGNITUDE OF THAT
39 ACTION AND MAKE A DECISION REGARDING RECIPROCITY BASED ON THIS ASSESSMENT.

40 5. MEETS ANY OTHER REQUIREMENTS PRESCRIBED BY THE BOARD BY RULE.

41 32-2091.05. Examinations

42 A. AN APPLICANT FOR LICENSURE MUST PASS AN EXAMINATION FROM A
43 NATIONALLY RECOGNIZED BEHAVIOR ANALYST CERTIFICATION BOARD AS DETERMINED BY
44 THE BOARD.

45 B. THE BOARD MAY REQUIRE AN ADDITIONAL EXAMINATION FOR ALL APPLICANTS
46 TO COVER AREAS OF PROFESSIONAL ETHICS AND PRACTICE THAT IS CONSISTENT WITH

1 THE APPLICANT'S EDUCATION AND EXPERIENCE, STATE LAW RELATING TO THE PRACTICE
2 OF BEHAVIOR ANALYSIS OR OTHER AREAS THE BOARD DETERMINES ARE SUITABLE.

3 C. AN APPLICANT MAY NOT TAKE AN EXAMINATION ADMINISTERED FOR OR BY THE
4 BOARD UNTIL THE APPLICANT COMPLETES THE EDUCATION REQUIREMENTS OF THIS
5 ARTICLE.

6 D. AN APPLICANT WHO FAILS THE NATIONAL EXAMINATION ADMINISTERED FOR OR
7 BY ANY JURISDICTION THREE TIMES IS NOT ELIGIBLE TO TAKE THAT EXAMINATION
8 AGAIN UNTIL THE APPLICANT MEETS ADDITIONAL REQUIREMENTS PRESCRIBED BY THE
9 BOARD.

10 32-2091.06. Temporary licenses; inactive status; reinstatement
11 to active status

12 A. IF THE BOARD REQUIRES AN ADDITIONAL EXAMINATION, IT MAY ISSUE A
13 TEMPORARY LICENSE TO A BEHAVIOR ANALYST WHO IS LICENSED OR CERTIFIED UNDER
14 THE LAWS OF ANOTHER JURISDICTION, IF THE BEHAVIOR ANALYST APPLIES TO THE
15 BOARD FOR LICENSURE AND MEETS THE EDUCATIONAL, EXPERIENCE AND FIRST
16 EXAMINATION REQUIREMENTS OF THIS ARTICLE.

17 B. A TEMPORARY LICENSE ISSUED PURSUANT TO THIS SECTION IS EFFECTIVE
18 FROM THE DATE THE APPLICATION IS APPROVED UNTIL THE LAST DAY OF THE MONTH IN
19 WHICH THE APPLICANT RECEIVES THE RESULTS OF THE ADDITIONAL EXAMINATION.

20 C. THE BOARD SHALL NOT EXTEND, RENEW OR REISSUE A TEMPORARY LICENSE OR
21 ALLOW IT TO CONTINUE IN EFFECT BEYOND THE PERIOD AUTHORIZED BY THIS SECTION.

22 D. THE BOARD'S DENIAL OF AN APPLICATION FOR LICENSURE TERMINATES A
23 TEMPORARY LICENSE.

24 E. THE BOARD MAY PLACE ON INACTIVE STATUS AND WAIVE THE LICENSE
25 RENEWAL FEE REQUIREMENTS FOR A PERSON WHO IS TEMPORARILY OR PERMANENTLY
26 UNABLE TO PRACTICE AS A BEHAVIOR ANALYST DUE TO PHYSICAL OR MENTAL INCAPACITY
27 OR DISABILITY. AN INITIAL REQUEST FOR THE WAIVER OF RENEWAL FEES SHALL BE
28 ACCOMPANIED BY THE RENEWAL FEE FOR AN ACTIVE LICENSE, WHICH THE BOARD SHALL
29 RETURN IF THE WAIVER IS GRANTED. THE BOARD SHALL JUDGE EACH REQUEST FOR THE
30 WAIVER OF RENEWAL FEES ON ITS OWN MERITS AND MAY SEEK THE VERIFICATION IT
31 DEEMS NECESSARY TO SUBSTANTIATE THE FACTS OF THE SITUATION. A BEHAVIOR
32 ANALYST WHO IS RETIRED IS EXEMPT FROM PAYING THE RENEWAL FEE. A BEHAVIOR
33 ANALYST MAY REQUEST VOLUNTARY INACTIVE STATUS BY SUBMITTING TO THE BOARD AN
34 APPLICATION ON A FORM PRESCRIBED BY THE BOARD AND AN AFFIRMATION THAT THE
35 BEHAVIOR ANALYST WILL NOT PRACTICE AS A BEHAVIOR ANALYST IN THIS STATE FOR
36 THE DURATION OF THE VOLUNTARY INACTIVE STATUS AND BY PAYING THE REQUIRED FEE.

37 F. A BEHAVIOR ANALYST WHO IS ON ANY FORM OF INACTIVE STATUS SHALL
38 RENEW THE INACTIVE STATUS EVERY TWO YEARS BY SUBMITTING A RENEWAL FORM
39 PROVIDED BY THE BOARD AND PAYING ANY APPLICABLE FEE. A NOTICE TO RENEW IS
40 FULLY EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST
41 KNOWN ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME
42 OF ITS DEPOSIT IN THE MAIL. A BEHAVIOR ANALYST WHO IS ON INACTIVE STATUS DUE
43 TO PHYSICAL OR MENTAL INCAPACITY OR DISABILITY OR RETIREMENT SHALL USE THE
44 TERM "INACTIVE" TO DESCRIBE THE PERSON'S STATUS AND SHALL NOT PRACTICE AS A
45 BEHAVIOR ANALYST.

1 G. A BEHAVIOR ANALYST ON INACTIVE STATUS MAY REQUEST REINSTATEMENT OF
2 THE LICENSE TO ACTIVE STATUS BY APPLYING TO THE BOARD. THE BOARD SHALL
3 DETERMINE WHETHER THE PERSON HAS BEEN OR IS IN VIOLATION OF ANY PROVISIONS OF
4 THIS ARTICLE AND WHETHER THE PERSON HAS MAINTAINED AND UPDATED THE PERSON'S
5 PROFESSIONAL KNOWLEDGE AND CAPABILITY TO PRACTICE AS A BEHAVIOR ANALYST. THE
6 BOARD MAY REQUIRE THE PERSON TO TAKE OR RETAKE THE LICENSURE EXAMINATIONS AND
7 MAY REQUIRE OTHER KNOWLEDGE OR SKILL TRAINING EXPERIENCES. IF APPROVED FOR
8 ACTIVE STATUS, THE PERSON SHALL PAY A RENEWAL FEE THAT EQUALS THE RENEWAL FEE
9 FOR THE LICENSE TO BE REINSTATED.

10 32-2091.07. Active license; issuance; renewal; expiration;
11 continuing education

12 A. IF THE APPLICANT SATISFIES ALL OF THE REQUIREMENTS FOR LICENSURE
13 PURSUANT TO THIS ARTICLE, THE BOARD SHALL ISSUE AN ACTIVE LICENSE AND SHALL
14 PRORATE THE FEE FOR ISSUING THAT LICENSE FOR THE PERIOD REMAINING UNTIL MAY 1
15 OF THE NEXT ODD-NUMBERED YEAR.

16 B. A PERSON HOLDING AN ACTIVE OR INACTIVE LICENSE SHALL APPLY TO RENEW
17 THE LICENSE ON OR BEFORE APRIL 30 OF EACH ODD-NUMBERED YEAR. THE APPLICATION
18 SHALL INCLUDE ANY APPLICABLE RENEWAL FEE. A LICENSE EXPIRES IF THE LICENSEE
19 FAILS TO RENEW THE LICENSE ON OR BEFORE APRIL 30 OF THAT YEAR. A LICENSEE
20 MAY REINSTATE AN EXPIRED LICENSE BY PAYING A REINSTATEMENT FEE ON OR BEFORE
21 JUNE 30 OF THAT YEAR. BEGINNING ON JULY 1 OF THAT YEAR THROUGH APRIL 30 OF
22 THE NEXT YEAR, A LICENSEE MAY REINSTATE THE LICENSE BY PAYING A REINSTATEMENT
23 FEE AND PROVIDING PROOF OF COMPETENCY AND QUALIFICATIONS TO THE BOARD. THIS
24 PROOF MAY INCLUDE CONTINUING EDUCATION, AN ORAL EXAMINATION, A WRITTEN
25 EXAMINATION OR AN INTERVIEW WITH THE BOARD. A LICENSEE WHOSE LICENSE IS NOT
26 REINSTATED ON OR BEFORE APRIL 30 OF THE NEXT EVEN-NUMBERED YEAR MAY REAPPLY
27 FOR LICENSURE AS PRESCRIBED BY THIS ARTICLE. A NOTICE TO RENEW IS FULLY
28 EFFECTIVE BY MAILING THE RENEWAL APPLICATION TO THE LICENSEE'S LAST KNOWN
29 ADDRESS OF RECORD IN THE BOARD'S FILE. NOTICE IS COMPLETE AT THE TIME OF
30 DEPOSIT IN THE MAIL.

31 C. A PERSON RENEWING A LICENSE SHALL ATTACH TO THE COMPLETED RENEWAL
32 FORM A REPORT OF DISCIPLINARY ACTIONS OR RESTRICTIONS PLACED AGAINST THE
33 LICENSE BY ANOTHER STATE LICENSING OR DISCIPLINARY BOARD OR DISCIPLINARY
34 ACTIONS OR SANCTIONS IMPOSED BY A STATE OR NATIONAL BEHAVIOR ANALYSIS ETHICS
35 COMMITTEE OR HEALTH CARE INSTITUTION. THE REPORT SHALL INCLUDE THE NAME AND
36 ADDRESS OF THE SANCTIONING AGENCY OR HEALTH CARE INSTITUTION, THE NATURE OF
37 THE ACTION TAKEN AND A GENERAL STATEMENT OF THE CHARGES LEADING TO THE
38 ACTION.

39 D. A PERSON WHO RENEWS AN ACTIVE LICENSE TO PRACTICE BEHAVIOR ANALYSIS
40 IN THIS STATE SHALL SATISFY A CONTINUING EDUCATION REQUIREMENT DESIGNED TO
41 PROVIDE THE NECESSARY UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS,
42 PROCEDURES OR TREATMENT RELATED TO THE PRACTICE OF BEHAVIOR ANALYSIS IN THE
43 AMOUNT AND DURING THE PERIOD THE BOARD PRESCRIBES. THE BOARD SHALL PRESCRIBE
44 DOCUMENTATION REQUIREMENTS.

32-2091.08. Exemptions from licensure

A. THIS ARTICLE DOES NOT LIMIT THE ACTIVITIES, SERVICES AND USE OF A TITLE BY THE FOLLOWING:

1. A BEHAVIOR ANALYST WHO IS EMPLOYED IN A COMMON SCHOOL, HIGH SCHOOL OR CHARTER SCHOOL SETTING AND WHO IS CERTIFIED TO USE THAT TITLE BY THE DEPARTMENT OF EDUCATION IF THE SERVICES OR ACTIVITIES ARE A PART OF THE DUTIES OF THAT PERSON'S COMMON SCHOOL, HIGH SCHOOL OR CHARTER SCHOOL EMPLOYMENT.

2. AN EMPLOYEE OF A GOVERNMENT AGENCY IN A SUBDOCTORATE POSITION WHO USES THE WORD "ASSISTANT" OR "ASSOCIATE" AFTER THE TITLE AND WHO IS SUPERVISED BY A DOCTORATE POSITION EMPLOYEE WHO IS LICENSED AS A BEHAVIOR ANALYST, INCLUDING A TEMPORARY LICENSEE.

3. A STUDENT OF BEHAVIOR ANALYSIS PURSUING AN OFFICIAL COURSE OF GRADUATE STUDY AT AN EDUCATIONAL INSTITUTION ACCREDITED AS PRESCRIBED BY THE BOARD, IF AFTER THE TITLE THE WORD "TRAINEE", "INTERN" OR "EXTERN" APPEARS AND THE STUDENT USES THE TITLE ONLY IN CONJUNCTION WITH ACTIVITIES AND SERVICES THAT ARE A PART OF THE SUPERVISED PROGRAM.

4. A PERSON WHO RESIDES OUTSIDE OF THIS STATE AND WHO IS CURRENTLY LICENSED OR CERTIFIED AS A BEHAVIOR ANALYST IN THAT STATE IF THE ACTIVITIES AND SERVICES CONDUCTED IN THIS STATE ARE WITHIN THE BEHAVIOR ANALYST'S CUSTOMARY AREA OF PRACTICE, DO NOT EXCEED TWENTY DAYS PER YEAR AND ARE NOT OTHERWISE IN VIOLATION OF THIS ARTICLE AND THE CLIENT, PUBLIC OR CONSUMER IS INFORMED OF THE LIMITED NATURE OF THESE ACTIVITIES AND SERVICES AND THAT THE BEHAVIOR ANALYST IS NOT LICENSED IN THIS STATE.

5. A PERSON IN THE EMPLOY OF ARIZONA STATE UNIVERSITY, NORTHERN ARIZONA UNIVERSITY OR THE UNIVERSITY OF ARIZONA IF THE SERVICES ARE A PART OF THE FACULTY DUTIES OF THAT PERSON'S SALARIED POSITION AND THE PERSON IS PARTICIPATING IN A POSTDOCTORAL PROGRAM.

6. A SUPERVISEE WHO IS PURSUING A POSTDOCTORAL PROFESSIONAL EXPERIENCE IF THE SERVICES OR ACTIVITIES ARE PROVIDED UNDER THE DIRECT SUPERVISION OF A LICENSED BEHAVIOR ANALYST, CLIENTS ARE INFORMED OF THE TRAINING NATURE OF THE SERVICES PROVIDED AND THE SUPERVISEE HAS A TITLE THAT DESIGNATES THAT PERSON'S TRAINING STATUS.

B. THIS ARTICLE DOES NOT LIMIT THE USE OF THE TITLE "BEHAVIOR ANALYST" BY A PERSON WHO POSSESSES A DOCTORAL DEGREE FROM AN EDUCATIONAL INSTITUTION IF THAT PERSON IS NOT ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS.

C. THIS ARTICLE DOES NOT PREVENT A MEMBER OF OTHER RECOGNIZED PROFESSIONS WHO IS LICENSED, CERTIFIED OR REGULATED UNDER THE LAWS OF THIS STATE FROM RENDERING SERVICES WITHIN THAT PERSON'S SCOPE OF PRACTICE AND CODE OF ETHICS IF THAT PERSON DOES NOT CLAIM TO BE A BEHAVIOR ANALYST.

32-2091.09. Grounds for disciplinary action; duty to report; immunity; proceedings; board action; notice requirements; civil penalty

A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE EVIDENCE THAT APPEARS TO SHOW THAT A LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN

1 THE PRACTICE OF BEHAVIOR ANALYSIS. A HEALTH CARE INSTITUTION SHALL, AND ANY
2 OTHER PERSON MAY, REPORT TO THE BOARD INFORMATION THAT APPEARS TO SHOW THAT A
3 LICENSEE IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
4 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
5 ANALYSIS. THE BOARD SHALL NOTIFY THE LICENSEE ABOUT WHOM INFORMATION HAS
6 BEEN RECEIVED AS TO THE CONTENT OF THE INFORMATION WITHIN ONE HUNDRED TWENTY
7 DAYS AFTER RECEIVING THE INFORMATION. A PERSON WHO REPORTS OR PROVIDES
8 INFORMATION TO THE BOARD IN GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL
9 DAMAGES. THE BOARD, IF REQUESTED, SHALL NOT DISCLOSE THE NAME OF THE PERSON
10 PROVIDING INFORMATION UNLESS THIS INFORMATION IS ESSENTIAL TO PROCEEDINGS
11 CONDUCTED PURSUANT TO THIS SECTION. THE BOARD SHALL REPORT A HEALTH CARE
12 INSTITUTION THAT FAILS TO REPORT AS REQUIRED BY THIS SECTION TO THE
13 INSTITUTION'S LICENSING AGENCY.

14 B. A HEALTH CARE INSTITUTION SHALL INFORM THE BOARD IF THE PRIVILEGES
15 OF A LICENSEE TO PRACTICE IN THAT INSTITUTION ARE DENIED, REVOKED, SUSPENDED
16 OR LIMITED BECAUSE OF ACTIONS BY THE LICENSEE THAT APPEAR TO SHOW THAT THE
17 PERSON IS PSYCHOLOGICALLY INCOMPETENT, GUILTY OF UNPROFESSIONAL CONDUCT OR
18 MENTALLY OR PHYSICALLY UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR
19 ANALYSIS, ALONG WITH A GENERAL STATEMENT OF THE REASONS THAT LED THE HEALTH
20 CARE INSTITUTION TO TAKE THIS ACTION. A HEALTH CARE INSTITUTION SHALL INFORM
21 THE BOARD IF A LICENSEE UNDER INVESTIGATION RESIGNS THE LICENSEE'S PRIVILEGES
22 OR IF A LICENSEE RESIGNS IN LIEU OF DISCIPLINARY ACTION BY THE HEALTH CARE
23 INSTITUTION. NOTIFICATION MUST INCLUDE A GENERAL STATEMENT OF THE REASONS
24 FOR THE RESIGNATION.

25 C. THE BOARD MAY REQUIRE THE LICENSEE TO UNDERGO ANY COMBINATION OF
26 MENTAL, PHYSICAL OR PSYCHOLOGICAL COMPETENCE EXAMINATIONS AT THE LICENSEE'S
27 EXPENSE AND SHALL CONDUCT INVESTIGATIONS NECESSARY TO DETERMINE THE
28 COMPETENCE AND CONDUCT OF THE LICENSEE.

29 D. THE CHAIRPERSON OF THE BOARD SHALL APPOINT A COMPLAINT SCREENING
30 COMMITTEE OF AT LEAST THREE MEMBERS OF THE BOARD, INCLUDING A PUBLIC MEMBER.
31 THE COMPLAINT SCREENING COMMITTEE IS SUBJECT TO OPEN MEETING REQUIREMENTS
32 PURSUANT TO TITLE 38, CHAPTER 3, ARTICLE 3.1. THE COMPLAINT SCREENING
33 COMMITTEE SHALL REVIEW ALL COMPLAINTS AND, BASED ON THE INFORMATION PROVIDED
34 PURSUANT TO SUBSECTION A OR B OF THIS SECTION, MAY TAKE EITHER OF THE
35 FOLLOWING ACTIONS:

36 1. DISMISS THE COMPLAINT IF THE COMMITTEE DETERMINES THAT THE
37 COMPLAINT IS WITHOUT MERIT. COMPLAINTS DISMISSED BY THE COMPLAINT SCREENING
38 COMMITTEE SHALL NOT BE DISCLOSED IN RESPONSE TO A TELEPHONE INQUIRY OR PLACED
39 ON THE BOARD'S WEBSITE.

40 2. REFER THE COMPLAINT TO THE FULL BOARD FOR FURTHER REVIEW AND
41 ACTION.

42 E. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER
43 SUBSECTION A OR B OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
44 REQUIRES EMERGENCY ACTION, THE BOARD MAY ORDER A SUMMARY SUSPENSION OF A
45 LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD
46 ISSUES THIS ORDER, IT SHALL SERVE THE LICENSEE WITH A WRITTEN NOTICE OF

1 COMPLAINT AND FORMAL HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10,
2 SETTING FORTH THE CHARGES MADE AGAINST THE LICENSEE AND THE LICENSEE'S RIGHT
3 TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE WITHIN
4 SIXTY DAYS.

5 F. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
6 SUBSECTION A OR B OF THIS SECTION IS NOT OF SUFFICIENT SERIOUSNESS TO MERIT
7 DIRECT ACTION AGAINST THE LICENSEE, IT MAY TAKE ANY OF THE FOLLOWING ACTIONS:

- 8 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.
- 9 2. FILE A LETTER OF CONCERN.

10 3. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
11 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
12 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
13 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

14 G. IF THE BOARD BELIEVES THE INFORMATION PROVIDED PURSUANT TO
15 SUBSECTION A OR B OF THIS SECTION IS OR MAY BE TRUE, IT MAY REQUEST AN
16 INFORMAL INTERVIEW WITH THE LICENSEE. IF THE LICENSEE REFUSES TO BE
17 INTERVIEWED OR IF PURSUANT TO AN INTERVIEW THE BOARD DETERMINES THAT CAUSE
18 MAY EXIST TO REVOKE OR SUSPEND THE LICENSE, IT SHALL ISSUE A FORMAL COMPLAINT
19 AND HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10. IF AS A
20 RESULT OF AN INFORMAL INTERVIEW OR A HEARING THE BOARD DETERMINES THAT THE
21 FACTS DO NOT WARRANT REVOCATION OR SUSPENSION OF THE LICENSE, IT MAY TAKE ANY
22 OF THE FOLLOWING ACTIONS:

- 23 1. DISMISS IF THE BOARD BELIEVES THE INFORMATION IS WITHOUT MERIT.
- 24 2. FILE A LETTER OF CONCERN.
- 25 3. ISSUE A DECREE OF CENSURE.

26 4. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
27 PUBLIC HEALTH AND SAFETY AND TO REHABILITATE OR EDUCATE THE LICENSEE.
28 PROBATION MAY INCLUDE TEMPORARY SUSPENSION FOR NOT MORE THAN TWELVE MONTHS,
29 RESTRICTION OF THE LICENSE OR RESTITUTION OF FEES TO A CLIENT RESULTING FROM
30 VIOLATIONS OF THIS ARTICLE. IF A LICENSEE FAILS TO COMPLY WITH A TERM OF
31 PROBATION, THE BOARD MAY FILE A COMPLAINT AND NOTICE OF HEARING PURSUANT TO
32 TITLE 41, CHAPTER 6, ARTICLE 10 AND TAKE FURTHER DISCIPLINARY ACTION.

33 5. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO RESTRICT OR LIMIT THE
34 LICENSEE'S PRACTICE OR ACTIVITIES IN ORDER TO REHABILITATE THE LICENSEE,
35 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE
36 PRACTICE OF BEHAVIOR ANALYSIS.

37 6. ISSUE A NONDISCIPLINARY ORDER REQUIRING THE LICENSEE TO COMPLETE A
38 PRESCRIBED NUMBER OF HOURS OF CONTINUING EDUCATION IN AN AREA OR AREAS
39 PRESCRIBED BY THE BOARD TO PROVIDE THE LICENSEE WITH THE NECESSARY
40 UNDERSTANDING OF CURRENT DEVELOPMENTS, SKILLS, PROCEDURES OR TREATMENT.

41 H. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED PURSUANT TO
42 SUBSECTION A OR B OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A
43 LICENSE, IT SHALL HOLD A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.
44 NOTICE OF A COMPLAINT AND HEARING IS FULLY EFFECTIVE BY MAILING A TRUE COPY
45 TO THE LICENSEE'S LAST KNOWN ADDRESS OF RECORD IN THE BOARD'S FILES. NOTICE
46 IS COMPLETE AT THE TIME OF ITS DEPOSIT IN THE MAIL.

1 I. THE BOARD MAY IMPOSE A CIVIL PENALTY OF AT LEAST THREE HUNDRED
2 DOLLARS BUT NOT MORE THAN THREE THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
3 ARTICLE OR A RULE ADOPTED UNDER THIS ARTICLE. THE BOARD SHALL DEPOSIT,
4 PURSUANT TO SECTIONS 35-146 AND 35-147, ALL MONIES IT COLLECTS FROM CIVIL
5 PENALTIES PURSUANT TO THIS SUBSECTION IN THE STATE GENERAL FUND.

6 J. IF THE BOARD DETERMINES AFTER A HEARING THAT A LICENSEE HAS
7 COMMITTED AN ACT OF UNPROFESSIONAL CONDUCT, IS MENTALLY OR PHYSICALLY UNABLE
8 TO SAFELY ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS OR IS PSYCHOLOGICALLY
9 INCOMPETENT, IT MAY DO ANY OF THE FOLLOWING IN ANY COMBINATION AND FOR ANY
10 PERIOD OF TIME IT DETERMINES NECESSARY:

- 11 1. SUSPEND OR REVOKE THE LICENSE.
- 12 2. CENSURE THE LICENSEE.
- 13 3. PLACE THE LICENSEE ON PROBATION.

14 K. A LICENSEE MAY SUBMIT A WRITTEN RESPONSE TO THE BOARD WITHIN THIRTY
15 DAYS AFTER RECEIVING A LETTER OF CONCERN. THE RESPONSE IS A PUBLIC DOCUMENT
16 AND SHALL BE PLACED IN THE LICENSEE'S FILE.

17 L. A LETTER OF CONCERN IS A PUBLIC DOCUMENT AND MAY BE USED IN FUTURE
18 DISCIPLINARY ACTIONS AGAINST A LICENSEE. A DECREE OF CENSURE IS AN OFFICIAL
19 ACTION AGAINST THE BEHAVIOR ANALYST'S LICENSE AND MAY INCLUDE A REQUIREMENT
20 THAT THE LICENSEE RETURN FEES TO A CLIENT.

21 M. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, A PERSON
22 MAY APPEAL A FINAL DECISION MADE PURSUANT TO THIS SECTION TO THE SUPERIOR
23 COURT PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

24 N. IF DURING THE COURSE OF AN INVESTIGATION THE BOARD DETERMINES THAT
25 A CRIMINAL VIOLATION MAY HAVE OCCURRED INVOLVING THE DELIVERY OF BEHAVIOR
26 ANALYSIS SERVICES, IT SHALL INFORM THE APPROPRIATE CRIMINAL JUSTICE AGENCY.

27 32-2091.10. Right to examine and copy evidence; subpoenas;
28 right to counsel; confidentiality

29 A. IN CONNECTION WITH AN INVESTIGATION CONDUCTED PURSUANT TO THIS
30 ARTICLE, AT ALL REASONABLE TIMES THE BOARD AND ITS AUTHORIZED AGENTS MAY
31 EXAMINE AND COPY DOCUMENTS, REPORTS, RECORDS AND OTHER PHYSICAL EVIDENCE
32 WHEREVER LOCATED RELATING TO THE LICENSEE'S PROFESSIONAL COMPETENCE,
33 UNPROFESSIONAL CONDUCT OR MENTAL OR PHYSICAL ABILITY TO SAFELY PRACTICE
34 BEHAVIOR ANALYSIS.

35 B. THE BOARD AND ITS AUTHORIZED AGENTS MAY ISSUE SUBPOENAS TO COMPEL
36 THE ATTENDANCE AND TESTIMONY OF WITNESSES AND THE PRODUCTION OF DOCUMENTS AND
37 OTHER PHYSICAL EVIDENCE AS PRESCRIBED IN SUBSECTION A. THE BOARD MAY
38 PETITION THE SUPERIOR COURT TO ENFORCE A SUBPOENA.

39 C. WITHIN FIVE DAYS OF RECEIVING A SUBPOENA, A PERSON MAY PETITION THE
40 BOARD TO REVOKE, LIMIT OR MODIFY THE SUBPOENA. THE BOARD SHALL TAKE THIS
41 ACTION IF IT DETERMINES THAT THE EVIDENCE DEMANDED IS NOT RELEVANT TO THE
42 INVESTIGATION. THE PERSON MAY PETITION THE SUPERIOR COURT FOR THIS RELIEF
43 WITHOUT FIRST PETITIONING THE BOARD.

44 D. A PERSON APPEARING BEFORE THE BOARD OR ITS AUTHORIZED AGENTS MAY BE
45 REPRESENTED BY AN ATTORNEY.

1 E. DOCUMENTS ASSOCIATED WITH AN INVESTIGATION ARE NOT OPEN TO THE
2 PUBLIC AND SHALL REMAIN CONFIDENTIAL. DOCUMENTS MAY NOT BE RELEASED WITHOUT
3 A COURT ORDER COMPELLING THEIR PRODUCTION.

4 F. THIS SECTION OR ANY OTHER PROVISION OF LAW MAKING COMMUNICATIONS
5 BETWEEN A BEHAVIOR ANALYST AND CLIENT PRIVILEGED DOES NOT APPLY TO AN
6 INVESTIGATION CONDUCTED PURSUANT TO THIS ARTICLE. THE BOARD, ITS EMPLOYEES
7 AND ITS AGENTS SHALL KEEP IN CONFIDENCE THE NAMES OF CLIENTS WHOSE RECORDS
8 ARE REVIEWED DURING AN INVESTIGATION.

9 32-2091.11. Injunction

10 A. THE BOARD MAY PETITION THE SUPERIOR COURT FOR AN ORDER TO ENJOIN
11 THE FOLLOWING:

12 1. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS ARTICLE FROM
13 PRACTICING BEHAVIOR ANALYSIS.

14 2. THE ACTIVITIES OF A LICENSEE THAT ARE AN IMMEDIATE THREAT TO THE
15 PUBLIC.

16 3. CRIMINAL ACTIVITIES.

17 B. IF THE BOARD SEEKS AN INJUNCTION TO STOP THE UNLICENSED PRACTICE OF
18 BEHAVIOR ANALYSIS, IT IS SUFFICIENT TO CHARGE THAT THE RESPONDENT ON A
19 CERTAIN DAY IN A SPECIFIC COUNTY ENGAGED IN THE PRACTICE OF BEHAVIOR ANALYSIS
20 WITHOUT A LICENSE AND WITHOUT BEING EXEMPT FROM THE LICENSURE REQUIREMENTS OF
21 THIS ARTICLE. IT IS NOT NECESSARY TO SHOW SPECIFIC DAMAGES OR INJURY.

22 C. THE ISSUANCE OF AN INJUNCTION DOES NOT LIMIT THE BOARD'S AUTHORITY
23 TO TAKE OTHER ACTION AGAINST A LICENSEE PURSUANT TO THIS ARTICLE.

24 32-2091.12. Violations; classification

25 A. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
26 PURSUANT TO THIS ARTICLE TO ENGAGE IN THE PRACTICE OF BEHAVIOR ANALYSIS.

27 B. IT IS A CLASS 2 MISDEMEANOR FOR ANY PERSON TO:

28 1. SECURE A LICENSE TO PRACTICE PURSUANT TO THIS ARTICLE BY FRAUD OR
29 DECEIT.

30 2. IMPERSONATE A MEMBER OF THE BOARD IN ORDER TO ISSUE A LICENSE TO
31 PRACTICE PURSUANT TO THIS ARTICLE.

32 C. IT IS A CLASS 2 MISDEMEANOR FOR A PERSON WHO IS NOT LICENSED
33 PURSUANT TO THIS ARTICLE TO USE ANY COMBINATION OF WORDS, INITIALS AND
34 SYMBOLS THAT LEADS THE PUBLIC TO BELIEVE THE PERSON IS LICENSED TO PRACTICE
35 BEHAVIOR ANALYSIS IN THIS STATE.

36 32-2091.13. Confidential communications

37 A. THE CONFIDENTIAL RELATIONS AND COMMUNICATIONS BETWEEN A CLIENT AND
38 A PERSON WHO IS LICENSED PURSUANT TO THIS ARTICLE, INCLUDING TEMPORARY
39 LICENSEES, ARE PLACED ON THE SAME BASIS AS THOSE PROVIDED BY LAW BETWEEN AN
40 ATTORNEY AND CLIENT. UNLESS THE CLIENT WAIVES THE BEHAVIOR ANALYST-CLIENT
41 PRIVILEGE IN WRITING OR IN COURT TESTIMONY, A BEHAVIOR ANALYST SHALL NOT
42 VOLUNTARILY OR INVOLUNTARILY DIVULGE INFORMATION THAT IS RECEIVED BY REASON
43 OF THE CONFIDENTIAL NATURE OF THE BEHAVIOR ANALYST'S PRACTICE. THE BEHAVIOR
44 ANALYST SHALL DIVULGE TO THE BOARD INFORMATION IT REQUIRES IN CONNECTION WITH
45 ANY INVESTIGATION, PUBLIC HEARING OR OTHER PROCEEDING. THE BEHAVIOR

1 ANALYST-CLIENT PRIVILEGE DOES NOT EXTEND TO CASES IN WHICH THE BEHAVIOR
2 ANALYST HAS A DUTY TO REPORT INFORMATION AS REQUIRED BY LAW.

3 B. THE BEHAVIOR ANALYST SHALL ENSURE THAT CLIENT RECORDS AND
4 COMMUNICATIONS ARE TREATED BY CLERICAL AND PARAPROFESSIONAL STAFF AT THE SAME
5 LEVEL OF CONFIDENTIALITY AND PRIVILEGE REQUIRED OF THE BEHAVIOR ANALYST.

6 Sec. 3. Section 36-2901.03, Arizona Revised Statutes, is amended to
7 read:

8 36-2901.03. Federal poverty program; eligibility

9 A. The administration shall adopt rules for a streamlined eligibility
10 determination process for any person who applies to be an eligible person as
11 defined in section 36-2901, paragraph 6, subdivision (a), item (iv). The
12 administration shall adopt these rules in accordance with state and federal
13 requirements and the section 1115 waiver.

14 B. The administration must base eligibility on an adjusted gross
15 income that does not exceed one hundred per cent of the federal poverty
16 guidelines.

17 C. For persons who the administration determines are eligible pursuant
18 to this section, the date of eligibility is the first day of the month of
19 application.

20 D. Except as provided in ~~subsection~~ SUBSECTIONS E AND F of this
21 section, the administration shall determine an eligible person's continued
22 eligibility ~~on an annual basis~~ AT LEAST ANNUALLY.

23 E. Every six months the administration shall determine the continued
24 eligibility of any adult who is at least twenty-one years of age and who is
25 subject to redetermination of eligibility for temporary assistance for needy
26 families cash benefits by the department. Acute care redeterminations
27 pursuant to this subsection shall begin on ~~the effective date of this~~
28 ~~amendment to this section~~ SEPTEMBER 19, 2007 and shall occur simultaneously
29 with redeterminations of eligibility for temporary assistance for needy
30 families cash benefits.

31 F. EVERY SIX MONTHS THE ADMINISTRATION SHALL DETERMINE THE CONTINUED
32 ELIGIBILITY OF ANY ADULT WITHOUT DEPENDENT CHILDREN WHO IS ALL OF THE
33 FOLLOWING:

- 34 1. AT LEAST TWENTY-ONE YEARS OF AGE.
35 2. DEFINED AS ELIGIBLE PURSUANT TO SECTION 36-2901.01.
36 3. NOT OTHERWISE ELIGIBLE AS A MANDATORY OR OPTIONALLY ELIGIBLE MEMBER
37 PURSUANT TO TITLE XIX OF THE SOCIAL SECURITY ACT AS AUTHORIZED BY THE STATE
38 PLAN.

39 Sec. 4. Section 36-2912, Arizona Revised Statutes, is amended to read:

40 36-2912. Healthcare group coverage; program requirements for
41 small businesses and public employers; related
42 requirements; definitions

43 A. The administration shall administer a healthcare group program to
44 allow willing contractors to deliver health care services to persons defined
45 as eligible pursuant to section 36-2901, paragraph 6, subdivisions (b), (c),
46 (d) and (e). In ~~the absence of a willing contractor~~ COUNTIES WITH A

1 POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS, the administration may
2 contract directly with any health care provider or entity. The
3 administration may enter into a contract with another entity to provide
4 administrative functions for the healthcare group program.

5 B. Employers with ~~one~~ TWO eligible ~~employee~~ EMPLOYEES or up to an
6 average of fifty eligible employees under section 36-2901, paragraph 6,
7 subdivision (d):

8 1. May contract with the administration to be the exclusive health
9 benefit plan if the employer has five or fewer eligible employees and enrolls
10 one hundred per cent of these employees into the health benefit plan.

11 2. May contract with the administration for coverage available
12 pursuant to this section if the employer has six or more eligible employees
13 and enrolls eighty per cent of these employees into the healthcare group
14 program.

15 3. Shall have a minimum of ~~one~~ TWO and a maximum of fifty eligible
16 employees at the effective date of their first contract with the
17 administration.

18 C. The administration shall not enroll an employer group in healthcare
19 group sooner than ~~one hundred eighty~~ NINETY days after the date that the
20 employer's health insurance coverage under an accountable health plan is
21 discontinued. Enrollment in healthcare group is effective on the first day of
22 the month after the ~~one hundred eighty~~ NINETY day period. This subsection
23 does not apply to an employer group if the employer's accountable health plan
24 discontinues offering the health plan of which the employer is a member.

25 D. Employees with proof of other existing health care coverage who
26 elect not to participate in the healthcare group program shall not be
27 considered when determining the percentage of enrollment requirements under
28 subsection B of this section if either:

29 1. Group health coverage is provided through a spouse, parent or legal
30 guardian, or insured through individual insurance or another employer.

31 2. Medical assistance is provided by a government subsidized health
32 care program.

33 3. Medical assistance is provided pursuant to section 36-2982,
34 subsection I.

35 E. An employer shall not offer coverage made available pursuant to
36 this section to persons defined as eligible pursuant to section 36-2901,
37 paragraph 6, subdivision (b), (c), (d) or (e) as a substitute for a federally
38 designated plan.

39 F. An employee or dependent defined as eligible pursuant to section
40 36-2901, paragraph 6, subdivision (b), (c), (d) or (e) may participate in
41 healthcare group on a voluntary basis only.

42 G. Notwithstanding subsection B, paragraph 2 of this section, the
43 administration shall adopt rules to allow a business that offers healthcare
44 group coverage pursuant to this section to continue coverage if it expands
45 its employment to include more than fifty employees.

1 H. The administration shall provide eligible employees with disclosure
2 information about the health benefit plan.

3 I. The director shall:

4 1. Require that any contractor that provides covered services to
5 persons defined as eligible pursuant to section 36-2901, paragraph 6,
6 subdivision (a) provide separate audited reports on the assets, liabilities
7 and financial status of any corporate activity involving providing coverage
8 pursuant to this section to persons defined as eligible pursuant to section
9 36-2901, paragraph 6, subdivision (b), (c), (d) or (e).

10 2. PROHIBIT THE ADMINISTRATION AND PROGRAM CONTRACTORS FROM
11 REIMBURSING A NONCONTRACTING HOSPITAL FOR SERVICES PROVIDED TO A MEMBER AT A
12 NONCONTRACTING HOSPITAL EXCEPT FOR SERVICES FOR AN EMERGENCY MEDICAL
13 CONDITION.

14 ~~2-~~ 3. Beginning on July 1, 2005, require that a contractor, the
15 administration or an accountable health plan negotiate reimbursement rates
16 ~~and not use the administration's reimbursement rates established pursuant to~~
17 ~~section 36-2903.01, subsection H, as a default reimbursement rate if a~~
18 ~~contract does not exist between a contractor and a provider.~~ THE
19 REIMBURSEMENT RATE FOR AN EMERGENCY MEDICAL CONDITION FOR A NONCONTRACTING
20 HOSPITAL IS:

21 (a) IN COUNTIES WITH A POPULATION OF MORE THAN FIVE HUNDRED THOUSAND
22 PERSONS, ONE HUNDRED FOURTEEN PER CENT OF THE REIMBURSEMENT RATES ESTABLISHED
23 PURSUANT TO SECTION 36-2903.01, SUBSECTION H. THE HOSPITAL SHALL NOTIFY THE
24 CONTRACTOR WHEN A MEMBER IS STABILIZED.

25 (b) IN COUNTIES WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND
26 PERSONS, ONE HUNDRED TWENTY-FIVE PER CENT OF THE REIMBURSEMENT RATES
27 ESTABLISHED PURSUANT TO SECTION 36-2903.01, SUBSECTION H. THE HOSPITAL SHALL
28 NOTIFY THE CONTRACTOR WHEN A MEMBER IS STABILIZED.

29 ~~3-~~ 4. Use monies from the healthcare group fund established by
30 section 36-2912.01 for the administration's costs of operating the healthcare
31 group program.

32 ~~4-~~ 5. Ensure that the contractors are required to meet contract terms
33 as are necessary in the judgment of the director to ensure adequate
34 performance by the contractor. Contract provisions shall include, at a
35 minimum, the maintenance of deposits, performance bonds, financial reserves
36 or other financial security. The director may waive requirements for the
37 posting of bonds or security for contractors that have posted other security,
38 equal to or greater than that required for the healthcare group program, with
39 the administration or the department of insurance for the performance of
40 health service contracts if funds would be available to the administration
41 from the other security on the contractor's default. In waiving, or
42 approving waivers of, any requirements established pursuant to this section,
43 the director shall ensure that the administration has taken into account all
44 the obligations to which a contractor's security is associated. The director
45 may also adopt rules that provide for the withholding or forfeiture of

1 payments to be made to a contractor for the failure of the contractor to
2 comply with provisions of its contract or with provisions of adopted rules.

3 ~~5.~~ 6. Adopt rules.

4 ~~6.~~ 7. Provide reinsurance to the contractors for clean claims based
5 on thresholds established by the administration. For the purposes of this
6 paragraph, "clean claims" has the same meaning prescribed in section 36-2904.

7 J. With respect to services provided by contractors to persons defined
8 as eligible pursuant to section 36-2901, paragraph 6, subdivision (b), (c),
9 (d) or (e), a contractor is the payor of last resort and has the same lien or
10 subrogation rights as those held by health care services organizations
11 licensed pursuant to title 20, chapter 4, article 9.

12 K. The administration shall offer a health benefit plan on a
13 guaranteed issuance basis to small employers as required by this section.
14 All small employers qualify for this guaranteed offer of coverage. ~~The~~
15 ~~administration shall provide a health benefit plan to each small employer~~
16 ~~without regard to health status-related factors if the small employer agrees~~
17 ~~to make the premium payments and to satisfy any other reasonable provisions~~
18 ~~of the plan and contract.~~ The administration shall offer to all small
19 employers the available health benefit plan and shall accept any small
20 employer that applies and meets the eligibility requirements. In addition to
21 the requirements prescribed in this section, for any offering of any health
22 benefit plan to a small employer, as part of the administration's
23 solicitation and sales materials, the administration shall make a reasonable
24 disclosure to the employer of the availability of the information described
25 in this subsection and, on request of the employer, shall provide that
26 information to the employer. The administration shall provide information
27 concerning the following:

28 1. Provisions of coverage relating to the following, if applicable:

29 (a) The administration's right to establish premiums and to change
30 premium rates and the factors that may affect changes in premium rates.

31 (b) Renewability of coverage.

32 (c) Any preexisting condition exclusion.

33 (d) The geographic areas served by the contractor.

34 2. The benefits and premiums available under all health benefit plans
35 for which the employer is qualified.

36 L. The administration shall describe the information required by
37 subsection K of this section in language that is understandable by the
38 average small employer and with a level of detail that is sufficient to
39 reasonably inform a small employer of the employer's rights and obligations
40 under the health benefit plan. This requirement is satisfied if the
41 administration provides the following information:

42 1. An outline of coverage that describes the benefits in summary form.

43 2. The rate or rating schedule that applies to the product,
44 preexisting condition exclusion or affiliation period.

45 3. The minimum employer contribution and group participation rules
46 that apply to any particular type of coverage.

1 4. In the case of a network plan, a map or listing of the areas
2 served.

3 M. A contractor is not required to disclose any information that is
4 proprietary and protected trade secret information under applicable law.

5 N. At least sixty days before the date of expiration of a health
6 benefit plan, the administration shall provide a written notice to the
7 employer of the terms for renewal of the plan.

8 O. The administration ~~may~~ SHALL increase or decrease premiums based on
9 actuarial reviews BY AN INDEPENDENT ACTUARY of the projected and actual costs
10 of providing health care benefits to eligible members. Before changing
11 premiums, the administration must give sixty days' written notice to the
12 employer. ~~The administration may cap the amount of the change.~~ FOR EACH
13 CONTRACT PERIOD THE ADMINISTRATION SHALL SET PREMIUMS THAT IN THE AGGREGATE
14 COVER PROJECTED MEDICAL AND ADMINISTRATIVE COSTS FOR THAT CONTRACT PERIOD AND
15 THAT ARE DETERMINED PURSUANT TO GENERALLY ACCEPTED ACTUARIAL PRINCIPLES AND
16 PRACTICES BY AN INDEPENDENT ACTUARY.

17 P. The administration ~~may~~ SHALL consider age, sex, ~~income~~ HEALTH
18 STATUS-RELATED FACTORS, GROUP SIZE, GEOGRAPHIC AREA and community rating when
19 it establishes premiums for the healthcare group program.

20 Q. Except as provided in subsection R of this section, a health
21 benefit plan may not deny, limit or condition the coverage or benefits based
22 on a person's health status-related factors or a lack of evidence of
23 insurability. A HEALTH BENEFIT PLAN SHALL NOT PROVIDE OR OFFER ANY SERVICE,
24 BENEFIT OR COVERAGE THAT IS NOT PART OF THE HEALTH BENEFIT PLAN CONTRACT.

25 R. A health benefit plan shall not exclude coverage for preexisting
26 conditions, except that:

27 1. A health benefit plan may exclude coverage for preexisting
28 conditions for a period of not more than twelve months or, in the case of a
29 late enrollee, eighteen months. The exclusion of coverage does not apply to
30 services that are furnished to newborns who were otherwise covered from the
31 time of their birth or to persons who satisfy the portability requirements
32 under this section.

33 2. The contractor shall reduce the period of any applicable
34 preexisting condition exclusion by the aggregate of the periods of creditable
35 coverage that apply to the individual.

36 S. The contractor shall calculate creditable coverage according to the
37 following:

38 1. The contractor shall give an individual credit for each portion of
39 each month the individual was covered by creditable coverage.

40 2. The contractor shall not count a period of creditable coverage for
41 an individual enrolled in a health benefit plan if after the period of
42 coverage and before the enrollment date there were sixty-three consecutive
43 days during which the individual was not covered under any creditable
44 coverage.

1 3. The contractor shall give credit in the calculation of creditable
2 coverage for any period that an individual is in a waiting period for any
3 health coverage.

4 T. The contractor shall not count a period of creditable coverage with
5 respect to enrollment of an individual if, after the most recent period of
6 creditable coverage and before the enrollment date, sixty-three consecutive
7 days lapse during all of which the individual was not covered under any
8 creditable coverage. The contractor shall not include in the determination
9 of the period of continuous coverage described in this section any period
10 that an individual is in a waiting period for health insurance coverage
11 offered by a health care insurer or is in a waiting period for benefits under
12 a health benefit plan offered by a contractor. In determining the extent to
13 which an individual has satisfied any portion of any applicable preexisting
14 condition period the contractor shall count a period of creditable coverage
15 without regard to the specific benefits covered during that period. A
16 contractor shall not impose any preexisting condition exclusion in the case
17 of an individual who is covered under creditable coverage thirty-one days
18 after the individual's date of birth. A contractor shall not impose any
19 preexisting condition exclusion in the case of a child who is adopted or
20 placed for adoption before age eighteen and who is covered under creditable
21 coverage thirty-one days after the adoption or placement for adoption.

22 U. The written certification provided by the administration must
23 include:

24 1. The period of creditable coverage of the individual under the
25 contractor and any applicable coverage under a COBRA continuation provision.

26 2. Any applicable waiting period or affiliation period imposed on an
27 individual for any coverage under the health plan.

28 V. The administration shall issue and accept a written certification
29 of the period of creditable coverage of the individual that contains at least
30 the following information:

31 1. The date that the certificate is issued.

32 2. The name of the individual or dependent for whom the certificate
33 applies and any other information that is necessary to allow the issuer
34 providing the coverage specified in the certificate to identify the
35 individual, including the individual's identification number under the policy
36 and the name of the policyholder if the certificate is for or includes a
37 dependent.

38 3. The name, address and telephone number of the issuer providing the
39 certificate.

40 4. The telephone number to call for further information regarding the
41 certificate.

42 5. One of the following:

43 (a) A statement that the individual has at least eighteen months of
44 creditable coverage. For purposes of this subdivision, eighteen months means
45 five hundred forty-six days.

1 (b) Both the date that the individual first sought coverage, as
2 evidenced by a substantially complete application, and the date that
3 creditable coverage began.

4 6. The date creditable coverage ended, unless the certificate
5 indicates that creditable coverage is continuing from the date of the
6 certificate.

7 W. The administration shall provide any certification pursuant to this
8 section within thirty days after the event that triggered the issuance of the
9 certification. Periods of creditable coverage for an individual are
10 established by presentation of the certifications in this section.

11 X. The healthcare group program shall comply with all applicable
12 federal requirements.

13 Y. Healthcare group may pay a commission to an insurance producer. To
14 receive a commission, the producer must certify that to the best of the
15 producer's knowledge the employer group has not had insurance in the ~~one~~
16 ~~hundred-eighty~~ NINETY days before applying to healthcare group. For the
17 purposes of this subsection, "commission" means a one time payment on the
18 initial enrollment of an employer.

19 Z. On or before June 15 and November 15 of each year, the director
20 shall submit a report to the joint legislative budget committee regarding the
21 number and type of businesses participating in healthcare group and that
22 includes updated information on healthcare group marketing activities. The
23 director, within thirty days of implementation, shall notify the joint
24 legislative budget committee of any changes in healthcare group benefits or
25 cost sharing arrangements.

26 AA. THE ADMINISTRATION SHALL SUBMIT THE FOLLOWING TO THE JOINT
27 LEGISLATIVE BUDGET COMMITTEE:

28 1. QUARTERLY REPORTS REGARDING THE FINANCIAL CONDITION OF THE
29 HEALTHCARE GROUP PROGRAM. THE REPORTS SHALL INCLUDE THE NUMBER OF PERSONS
30 AND EMPLOYER GROUPS ENROLLED IN THE PROGRAM AND MEDICAL LOSS INFORMATION AND
31 PROJECTIONS.

32 2. AN ANNUAL FINANCIAL AUDIT.

33 3. THE ANALYSIS THAT IS USED TO DETERMINE PREMIUMS PURSUANT TO
34 SUBSECTION O OF THIS SECTION.

35 BB. BEGINNING JULY 1, 2009, AND EACH FISCAL YEAR THEREAFTER,
36 HEALTHCARE GROUP SHALL LIMIT EMPLOYER GROUP ENROLLMENT TO NOT MORE THAN FIVE
37 PER CENT MORE THAN THE NUMBER OF EMPLOYER GROUPS ENROLLED IN THE PROGRAM AT
38 THE END OF THE PRECEDING FISCAL YEAR. HEALTHCARE GROUP SHALL GIVE ENROLLMENT
39 PRIORITY TO UNINSURED GROUPS.

40 ~~AA-~~ CC. For the purposes of this section:

41 1. "Accountable health plan" has the same meaning prescribed in
42 section 20-2301.

43 2. "COBRA continuation provision" means:

44 (a) Section 4980B, except subsection (f)(1) as it relates to pediatric
45 vaccines, of the internal revenue code of 1986.

1 (b) Title I, subtitle B, part 6, except section 609, of the employee
2 retirement income security act of 1974.

3 (c) Title XXII of the public health service act.

4 (d) Any similar provision of the law of this state or any other state.

5 3. "Creditable coverage" means coverage solely for an individual,
6 other than limited benefits coverage, under any of the following:

7 (a) An employee welfare benefit plan that provides medical care to
8 employees or the employees' dependents directly or through insurance,
9 reimbursement or otherwise pursuant to the employee retirement income
10 security act of 1974.

11 (b) A church plan as defined in the employee retirement income
12 security act of 1974.

13 (c) A health benefits plan, as defined in section 20-2301, issued by a
14 health plan.

15 (d) Part A or part B of title XVIII of the social security act.

16 (e) Title XIX of the social security act, other than coverage
17 consisting solely of benefits under section 1928.

18 (f) Title 10, chapter 55 of the United States Code.

19 (g) A medical care program of the Indian health service or of a tribal
20 organization.

21 (h) A health benefits risk pool operated by any state of the United
22 States.

23 (i) A health plan offered pursuant to title 5, chapter 89 of the
24 United States Code.

25 (j) A public health plan as defined by federal law.

26 (k) A health benefit plan pursuant to section 5(e) of the peace corps
27 act (22 United States Code section 2504(e)).

28 (l) A policy or contract, including short-term limited duration
29 insurance, issued on an individual basis by an insurer, a health care
30 services organization, a hospital service corporation, a medical service
31 corporation or a hospital, medical, dental and optometric service corporation
32 or made available to persons defined as eligible under section 36-2901,
33 paragraph 6, subdivisions (b), (c), (d) and (e).

34 (m) A policy or contract issued by a health care insurer or the
35 administration to a member of a bona fide association.

36 4. "Eligible employee" means a person who is one of the following:

37 (a) Eligible pursuant to section 36-2901, paragraph 6, subdivisions
38 (b), (c), (d) and (e).

39 (b) A person who works for an employer for a minimum of twenty hours
40 per week or who is self-employed for at least twenty hours per week.

41 (c) An employee who elects coverage pursuant to section 36-2982,
42 subsection I. The restriction prohibiting employees employed by public
43 agencies prescribed in section 36-2982, subsection I does not apply to this
44 subdivision.

45 (d) A person who meets all of the eligibility requirements, who is
46 eligible for a federal health coverage tax credit pursuant to section 35 of

1 the internal revenue code of 1986 and who applies for health care coverage
2 through the healthcare group program. The requirement that a person be
3 employed with a small business that elects healthcare group coverage does not
4 apply to this eligibility group.

5 5. "EMERGENCY MEDICAL CONDITION" HAS THE SAME MEANING PRESCRIBED IN
6 THE EMERGENCY MEDICAL TREATMENT AND LABOR ACT (P.L. 99-272; 100 STAT. 164; 42
7 UNITED STATES CODE SECTION 1395dd(e)).

8 ~~5.~~ 6. "Genetic information" means information about genes, gene
9 products and inherited characteristics that may derive from the individual or
10 a family member, including information regarding carrier status and
11 information derived from laboratory tests that identify mutations in specific
12 genes or chromosomes, physical medical examinations, family histories and
13 direct ~~analysis~~ ANALYSES of genes or chromosomes.

14 ~~6.~~ 7. "Health benefit plan" means coverage offered by the
15 administration for the healthcare group program pursuant to this section.

16 ~~7.~~ 8. "Health status-related factor" means any factor in relation to
17 the health of the individual or a dependent of the individual enrolled or to
18 be enrolled in a health plan including:

- 19 (a) Health status.
- 20 (b) Medical condition, including physical and mental illness.
- 21 (c) Claims experience.
- 22 (d) Receipt of health care.
- 23 (e) Medical history.
- 24 (f) Genetic information.
- 25 (g) Evidence of insurability, including conditions arising out of acts
26 of domestic violence as defined in section 20-448.
- 27 (h) The existence of a physical or mental disability.

28 ~~8.~~ 9. "Hospital" means a health care institution licensed as a
29 hospital pursuant to chapter 4, article 2 of this title.

30 ~~9.~~ 10. "Late enrollee" means an employee or dependent who requests
31 enrollment in a health benefit plan after the initial enrollment period that
32 is provided under the terms of the health benefit plan if the initial
33 enrollment period is at least thirty-one days. Coverage for a late enrollee
34 begins on the date the person becomes a dependent if a request for enrollment
35 is received within thirty-one days after the person becomes a dependent. An
36 employee or dependent shall not be considered a late enrollee if:

- 37 (a) The person:
 - 38 (i) At the time of the initial enrollment period was covered under a
39 public or private health insurance policy or any other health benefit plan.
 - 40 (ii) Lost coverage under a public or private health insurance policy
41 or any other health benefit plan due to the employee's termination of
42 employment or eligibility, the reduction in the number of hours of
43 employment, the termination of the other plan's coverage, the death of the
44 spouse, legal separation or divorce or the termination of employer
45 contributions toward the coverage.

1 (iii) Requests enrollment within thirty-one days after the termination
2 of creditable coverage that is provided under a COBRA continuation provision.

3 (iv) Requests enrollment within thirty-one days after the date of
4 marriage.

5 (b) The person is employed by an employer that offers multiple health
6 benefit plans and the person elects a different plan during an open
7 enrollment period.

8 (c) The person becomes a dependent of an eligible person through
9 marriage, birth, adoption or placement for adoption and requests enrollment
10 no later than thirty-one days after becoming a dependent.

11 ~~10.~~ 11. "Preexisting condition" means a condition, regardless of the
12 cause of the condition, for which medical advice, diagnosis, care or
13 treatment was recommended or received within not more than six months before
14 the date of the enrollment of the individual under a health benefit plan
15 issued by a contractor. Preexisting condition does not include a genetic
16 condition in the absence of a diagnosis of the condition related to the
17 genetic information.

18 ~~11.~~ 12. "Preexisting condition limitation" or "preexisting condition
19 exclusion" means a limitation or exclusion of benefits for a preexisting
20 condition under a health benefit plan offered by a contractor.

21 ~~12.~~ 13. "Small employer" means an employer who employs at least one
22 but not more than fifty eligible employees on a typical business day during
23 any one calendar year.

24 ~~13.~~ 14. "Waiting period" means the period that must pass before a
25 potential participant or eligible employee in a health benefit plan offered
26 by a health plan is eligible to be covered for benefits as determined by the
27 individual's employer.

28 Sec. 5. Title 36, chapter 29, article 1, Arizona Revised Statutes, is
29 amended by adding section 36-2912.04, to read:

30 ~~36-2912.04.~~ Medical loss subsidies; required information

31 THE ADMINISTRATION SHALL ESTABLISH UTILIZATION MANAGEMENT CONTROL
32 STANDARDS FOR PARTICIPATING CONTRACTORS THAT MEET NATIONALLY RECOGNIZED
33 STANDARDS FOR MANAGED CARE UTILIZATION. CONTRACTORS THAT DO NOT MEET THESE
34 STANDARDS ARE NOT ELIGIBLE FOR STOP-LOSS COVERAGE FOR MEDICAL COSTS IN EXCESS
35 OF THESE STANDARDS.

36 Sec. 6. Title 36, chapter 29, article 4, Arizona Revised Statutes, is
37 amended by adding section 36-2981.01, to read:

38 ~~36-2981.01.~~ Children's health insurance program; parent
39 eligibility

40 A. A PARENT OF A CHILD WHO IS ELIGIBLE FOR OR ENROLLED IN THE
41 CHILDREN'S HEALTH INSURANCE PROGRAM OR A PARENT WHO HAS A CHILD ENROLLED
42 UNDER ARTICLE 1 OF THIS CHAPTER, BUT WHO WOULD BE ELIGIBLE FOR THE CHILDREN'S
43 HEALTH INSURANCE PROGRAM, IS ELIGIBLE FOR THE CHILDREN'S HEALTH INSURANCE
44 PROGRAM AND MAY APPLY FOR ELIGIBILITY BASED ON AN INCOME THAT DOES NOT EXCEED
45 TWO HUNDRED PER CENT OF THE FEDERAL POVERTY LEVEL.

1 B. ELIGIBILITY AND PROGRAM CONTINUATION ARE DEPENDENT ON THE
2 CONTINUATION OF AN ENHANCED FEDERAL MATCHING RATE FOR STATE MONIES. THE
3 PROGRAM ENDS ON EXPIRATION OF THE ENHANCED FEDERAL MATCHING RATE.

4 C. IN DETERMINING ELIGIBILITY PURSUANT TO SUBSECTION A OF THIS
5 SECTION, THE ARIZONA HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION SHALL
6 APPLY OTHER ELIGIBILITY REQUIREMENTS PURSUANT TO SECTIONS 36-2981 AND 36-2983
7 AND RULES ADOPTED BY THE ADMINISTRATION. IF THE PARENT IS DETERMINED
8 ELIGIBLE PURSUANT TO THIS SECTION, EXCEPT AS PROVIDED IN SUBSECTION D OF THIS
9 SECTION, ALL OTHER REQUIREMENTS ESTABLISHED BY THE ADMINISTRATION BY RULE,
10 INCLUDING AVAILABLE SERVICES, PURSUANT TO THIS ARTICLE APPLY.

11 D. PERSONS RECEIVING SERVICES UNDER THIS SECTION SHALL MAKE PREMIUM
12 PAYMENTS ON A MONTHLY BASIS. THE DIRECTOR SHALL ADOPT RULES TO PRESCRIBE
13 TIERED PREMIUMS BASED ON THE FOLLOWING:

14 1. FOR HOUSEHOLDS WITH INCOMES OF MORE THAN ONE HUNDRED PER CENT BUT
15 LESS THAN ONE HUNDRED FIFTY PER CENT OF THE FEDERAL POVERTY GUIDELINES, THE
16 PREMIUM IS EQUAL TO THREE PER CENT OF THE HOUSEHOLD'S NET INCOME.

17 2. FOR HOUSEHOLDS WITH INCOMES OF AT LEAST ONE HUNDRED FIFTY PER CENT
18 BUT LESS THAN ONE HUNDRED SEVENTY-FIVE PER CENT OF THE FEDERAL POVERTY
19 GUIDELINES, THE PREMIUM IS EQUAL TO FOUR PER CENT OF THE HOUSEHOLD'S NET
20 INCOME.

21 3. FOR HOUSEHOLDS WITH INCOMES OF AT LEAST ONE HUNDRED SEVENTY-FIVE
22 PER CENT BUT NOT MORE THAN TWO HUNDRED PER CENT OF THE FEDERAL POVERTY
23 GUIDELINES, THE PREMIUM IS EQUAL TO FIVE PER CENT OF THE HOUSEHOLD'S NET
24 INCOME.

25 E. PREMIUMS PAID PURSUANT TO SUBSECTION D OF THIS SECTION APPLY TO THE
26 ENTIRE HOUSEHOLD UNIT, REGARDLESS OF THE NUMBER OF PARENTS OR CHILDREN
27 PARTICIPATING.

28 Sec. 7. Repeal

29 Section 41-3008.16, Arizona Revised Statutes, is repealed.

30 Sec. 8. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
31 amended by adding section 41-3016.28, to read:

32 41-3016.28. Arizona pioneers' home; disabled miners hospital;
33 termination July 1, 2016

34 A. THE ARIZONA PIONEERS' HOME AND THE DISABLED MINERS HOSPITAL
35 TERMINATE ON JULY 1, 2016.

36 B. TITLE 41, CHAPTER 5, ARTICLES 2 AND 3 ARE REPEALED ON JANUARY 1,
37 2017.

38 Sec. 9. Exemption from rule making

39 For the purposes of this act, the state board of psychologist examiners
40 is exempt from the rule making requirements of title 41, chapter 6, Arizona
41 Revised Statutes, for two years after the effective date of this act.

42 Sec. 10. County transfers; fiscal year 2008-2009; county
43 expenditure limitations

44 A. Notwithstanding any other law, in fiscal year 2008-2009, counties
45 with a population of two million or more persons shall transfer \$24,168,400
46 and counties with a population of more than eight hundred thousand persons

1 but less than two million persons shall transfer \$3,794,400 to the Arizona
2 health care cost containment system administration for deposit in the budget
3 neutrality compliance fund established by section 36-2928, Arizona Revised
4 Statutes.

5 B. Notwithstanding any other law, a county may meet any statutory
6 funding requirements of this section from any source of county revenue
7 designated by the county, including funds of any county wide special taxing
8 district in which the board of supervisors serves as the board of directors.

9 C. Contributions made pursuant to this section are excluded from the
10 county expenditure limitations.

11 Sec. 11. AHCCCS; transfers; budget neutrality compliance fund

12 Notwithstanding any other law, in fiscal year 2008-2009, the Arizona
13 health care cost containment system administration shall not transfer
14 \$17,830,500 to counties for refunds of county Arizona long-term care system
15 costs for fiscal year 2006-2007 and fiscal year 2007-2008 and shall instead
16 deposit the \$17,830,500 in the budget neutrality compliance fund established
17 by section 36-2928, Arizona Revised Statutes.

18 Sec. 12. Temporary medical coverage program; suspension

19 Notwithstanding any other law, the temporary medical coverage program
20 established by section 36-2930, Arizona Revised Statutes, is suspended during
21 fiscal year 2008-2009.

22 Sec. 13. AHCCCS; disproportionate share payments

23 Disproportionate share payments for fiscal year 2008-2009 made pursuant
24 to section 36-2903.01, subsection P, Arizona Revised Statutes, include:

25 1. \$89,877,700 for a qualifying nonstate operated public hospital.
26 The Maricopa county special health care district shall provide a certified
27 public expense form for the amount of qualifying disproportionate share
28 hospital expenditures made on behalf of this state to the administration on
29 or before May 1, 2009 for all state plan years as required by the Arizona
30 health care cost containment system 1115 waiver standard terms and
31 conditions. The administration shall assist the district in determining the
32 amount of qualifying disproportionate share hospital expenditures. Once the
33 administration files a claim with the federal government and receives federal
34 funds participation based on the amount certified by the Maricopa county
35 special health care district, if the certification is equal to or greater
36 than \$89,877,700, the administration shall distribute \$4,202,300 to the
37 Maricopa county special health care district and deposit the balance of the
38 federal funds participation in the state general fund. If the certification
39 provided is for an amount less than \$89,877,700, and the administration
40 determines that the revised amount is correct pursuant to the methodology
41 used by the administration pursuant to section 36-2903.01, Arizona Revised
42 Statutes, the administration shall notify the governor, the president of the
43 senate and the speaker of the house of representatives, shall distribute
44 \$4,202,300 to the Maricopa county special health care district and shall
45 deposit the balance of the federal funds participation in the state general
46 fund. If the certification provided is for an amount less than \$89,877,700

1 and the administration determines that the revised amount is not correct
2 pursuant to the methodology used by the administration pursuant to section
3 36-2903.01, Arizona Revised Statutes, the administration shall notify the
4 governor, the president of the senate and the speaker of the house of
5 representatives and shall deposit the total amount of the federal funds
6 participation in the state general fund.

7 2. \$28,614,300 for the Arizona state hospital. The Arizona state
8 hospital shall provide a certified public expense form for the amount of
9 qualifying disproportionate share hospital expenditures made on behalf of the
10 state to the administration on or before March 31, 2009. The administration
11 shall assist the Arizona state hospital in determining the amount of
12 qualifying disproportionate share hospital expenditures. Once the
13 administration files a claim with the federal government and receives federal
14 funds participation based on the amount certified by the Arizona state
15 hospital, the administration shall distribute the entire amount of federal
16 financial participation to the state general fund. If the certification
17 provided is for an amount less than \$28,614,300, the administration shall
18 notify the governor, the president of the senate and the speaker of the house
19 of representatives and shall distribute the entire amount of federal
20 financial participation to the state general fund. The certified public
21 expense form provided by the Arizona state hospital shall contain both the
22 total amount of qualifying disproportionate share hospital expenditures and
23 the amount limited by section 1923(g) of the social security act.

24 3. \$26,147,700 for private qualifying disproportionate share
25 hospitals.

26 Sec. 14. County acute care contribution: fiscal year 2008-2009

27 A. Notwithstanding section 11-292, Arizona Revised Statutes, for
28 fiscal year 2008-2009 for the provision of hospitalization and medical care,
29 the counties shall contribute the following amounts:

30	1. Apache	\$ 268,800
31	2. Cochise	\$ 2,214,800
32	3. Coconino	\$ 742,900
33	4. Gila	\$ 1,413,200
34	5. Graham	\$ 536,200
35	6. Greenlee	\$ 190,700
36	7. La Paz	\$ 212,100
37	8. Maricopa	\$21,552,700
38	9. Mohave	\$ 1,237,700
39	10. Navajo	\$ 310,800
40	11. Pima	\$14,951,800
41	12. Pinal	\$ 2,715,600
42	13. Santa Cruz	\$ 482,800
43	14. Yavapai	\$ 1,427,800
44	15. Yuma	\$ 1,325,100

45 B. If a county does not provide funding as specified in subsection A
46 of this section, the state treasurer shall subtract the amount owed by the

1 county to the Arizona health care cost containment system fund and the
2 long-term care system fund established by section 36-2913, Arizona Revised
3 Statutes, from any payments required to be made by the state treasurer to
4 that county pursuant to section 42-5029, subsection D, paragraph 2, Arizona
5 Revised Statutes, plus interest on that amount pursuant to section 44-1201,
6 Arizona Revised Statutes, retroactive to the first day the funding was due.
7 If the monies the state treasurer withholds are insufficient to meet that
8 county's funding requirements as specified in subsection A of this section,
9 the state treasurer shall withhold from any other monies payable to that
10 county from whatever state funding source is available an amount necessary to
11 fulfill that county's requirement. The state treasurer shall not withhold
12 distributions from the highway user revenue fund pursuant to title 28,
13 chapter 18, article 2, Arizona Revised Statutes.

14 C. Payment of an amount equal to one-twelfth of the total amount
15 determined pursuant to subsection A of this section shall be made to the
16 state treasurer on or before the fifth day of each month. On request from
17 the director of the Arizona health care cost containment system
18 administration, the state treasurer shall require that up to three months'
19 payments be made in advance, if necessary.

20 D. The state treasurer shall deposit the amounts paid pursuant to
21 subsection C of this section and amounts withheld pursuant to subsection B of
22 this section in the Arizona health care cost containment system fund and the
23 long-term care system fund established by section 36-2913, Arizona Revised
24 Statutes.

25 E. If payments made pursuant to subsection C of this section exceed
26 the amount required to meet the costs incurred by the Arizona health care
27 cost containment system for the hospitalization and medical care of those
28 persons defined as an eligible person pursuant to section 36-2901, paragraph
29 6, subdivisions (a), (b) and (c), Arizona Revised Statutes, the director of
30 the Arizona health care cost containment system administration may instruct
31 the state treasurer either to reduce remaining payments to be paid pursuant
32 to this section by a specified amount or to provide to the counties specified
33 amounts from the Arizona health care cost containment system fund and the
34 long-term care system fund.

35 F. It is the intent of the legislature that the Maricopa county
36 contribution pursuant to subsection A of this section be reduced in each
37 subsequent year according to the changes in the GDP price deflator. For the
38 purposes of this subsection, "GDP price deflator" has the same meaning
39 prescribed in section 41-563, Arizona Revised Statutes.

40 Sec. 15. ALTCS; county contributions

41 Notwithstanding section 11-292, Arizona Revised Statutes, county
42 contributions for the Arizona long-term care system for fiscal year 2008-2009
43 are as follows:

- | | |
|----------------|--------------|
| 44 1. Apache | \$ 628,500 |
| 45 2. Cochise | \$ 5,644,100 |
| 46 3. Coconino | \$ 1,885,900 |

1	4. Gila	\$ 2,340,100
2	5. Graham	\$ 1,216,100
3	6. Greenlee	\$ 117,900
4	7. La Paz	\$ 885,700
5	8. Maricopa	\$160,744,800
6	9. Mohave	\$ 8,397,100
7	10. Navajo	\$ 2,600,100
8	11. Pima	\$ 41,270,700
9	12. Pinal	\$ 12,905,000
10	13. Santa Cruz	\$ 1,929,600
11	14. Yavapai	\$ 9,212,100
12	15. Yuma	\$ 6,864,700

13 Sec. 16. Hospitalization and medical care contribution; fiscal
14 year 2008-2009

15 A. Notwithstanding any other law, for fiscal year 2008-2009, beginning
16 with the second monthly distribution of transaction privilege tax revenues,
17 the state treasurer shall withhold the following amounts from state
18 transaction privilege tax revenues otherwise distributable, after any amounts
19 withheld for the county long-term care contribution or the county
20 administration contribution pursuant to section 11-292, subsection P, Arizona
21 Revised Statutes, for deposit in the Arizona health care cost containment
22 system fund established by section 36-2913, Arizona Revised Statutes, for the
23 provision of hospitalization and medical care:

24	1. Apache	\$ 87,300
25	2. Cochise	\$ 162,700
26	3. Coconino	\$ 160,500
27	4. Gila	\$ 65,900
28	5. Graham	\$ 46,800
29	6. Greenlee	\$ 12,000
30	7. La Paz	\$ 24,900
31	8. Mohave	\$ 187,400
32	9. Navajo	\$ 122,800
33	10. Pima	\$1,115,900
34	11. Pinal	\$ 218,300
35	12. Santa Cruz	\$ 51,600
36	13. Yavapai	\$ 206,200
37	14. Yuma	\$ 183,900

38 B. If a county does not provide funding as specified in subsection A
39 of this section, the state treasurer shall subtract the amount owed by the
40 county to the Arizona health care cost containment system fund from any
41 payments required to be made by the state treasurer to that county pursuant
42 to section 42-5029, subsection D, paragraph 2, Arizona Revised Statutes, plus
43 interest on that amount pursuant to section 44-1201, Arizona Revised
44 Statutes, retroactive to the first day the funding was due. If the monies
45 the state treasurer withholds are insufficient to meet that county's funding
46 requirement as specified in subsection A of this section, the state treasurer

1 shall withhold from any other monies payable to that county from whatever
2 state funding source is available an amount necessary to fulfill that
3 county's requirement. The state treasurer shall not withhold distributions
4 from the highway user revenue fund pursuant to title 28, chapter 18, article
5 2, Arizona Revised Statutes.

6 C. Payment of an amount equal to one-twelfth of the total monies
7 prescribed pursuant to subsection A of this section shall be made to the
8 state treasurer on or before the fifth day of each month. On request from
9 the director of the Arizona health care cost containment system
10 administration, the state treasurer shall require that up to three months'
11 payments be made in advance, if necessary.

12 D. The state treasurer shall deposit the monies paid pursuant to
13 subsection C of this section in the Arizona health care cost containment
14 system fund established by section 36-2913, Arizona Revised Statutes.

15 E. In fiscal year 2008-2009, the sum of \$2,646,200 withheld pursuant
16 to subsection A or B of this section, as applicable, is allocated for the
17 county acute care contribution for the provision of hospitalization and
18 medical care services administered by the Arizona health care cost
19 containment system administration.

20 F. County contributions made pursuant to subsection A of this section
21 are excluded from the county expenditure limitations.

22 Sec. 17. Competency restoration treatment; county and city
23 reimbursement; fiscal year 2008-2009; deposit; tax
24 withholding

25 A. Notwithstanding section 13-4512, Arizona Revised Statutes, if the
26 state pays the costs of a defendant's inpatient competency restoration
27 treatment pursuant to section 13-4512, Arizona Revised Statutes, for counties
28 with a population of eight hundred thousand or more persons and for all
29 cities, the city or county shall reimburse the department of health services
30 for eighty-six per cent of these costs for fiscal year 2008-2009.

31 B. The department shall deposit the reimbursements, pursuant to
32 sections 35-146 and 35-147, Arizona Revised Statutes, in the Arizona state
33 hospital fund established by section 36-545.08, Arizona Revised Statutes.

34 C. Each city and county shall make the reimbursements for these costs
35 as specified in subsection A of this section within thirty days after a
36 request by the department. If the city or county does not make the
37 reimbursement, the superintendent of the Arizona state hospital shall notify
38 the state treasurer of the amount owed and the treasurer shall withhold the
39 amount, including any additional interest as provided in section 42-1123,
40 Arizona Revised Statutes, from any transaction privilege tax distributions to
41 the city or county. The treasurer shall deposit the withholdings, pursuant
42 to sections 35-146 and 35-147, Arizona Revised Statutes, in the Arizona state
43 hospital fund established by section 36-545.08, Arizona Revised Statutes.

44 Sec. 18. Proposition 204 administration; county expenditure
45 limitation

1 County contributions for the administrative costs of implementing
2 sections 36-2901.01 and 36-2901.04, Arizona Revised Statutes, that are made
3 pursuant to section 11-292, subsection 0, Arizona Revised Statutes, are
4 excluded from the county expenditure limitations.

5 Sec. 19. Health insurance premiums: department of
6 administration

7 For fiscal year 2008-2009, the department of administration shall not
8 implement a differentiated health insurance premium based on the integrated
9 or nonintegrated status of a health insurance provider available through the
10 state employee health insurance program beginning October 1, 2008.

11 Sec. 20. AHCCCS; reimbursement rates; freeze

12 For rates effective October 1, 2008 through September 30, 2009, the
13 Arizona health care cost containment system administration shall not increase
14 the inpatient hospital tier per diem rates, inpatient hospital outlier
15 thresholds or aggregate outpatient hospital fee schedule rates above the
16 rates in effect on September 30, 2008, except that the administration shall
17 continue the phase-in of outlier cost-to-charge ratios as required by section
18 36-2903.01, subsection H, paragraph 10, Arizona Revised Statutes.

19 Sec. 21. Health crisis fund deposit

20 A. Notwithstanding section 36-797, Arizona Revised Statutes, on July
21 1, 2008, sufficient monies from the medically needy account to establish a
22 fund balance of \$500,000 shall be deposited in the health crisis fund.

23 B. This section applies retroactively to from and after June 30, 2008.

24 Sec. 22. Maricopa integrated health system; audit

25 The auditor general shall conduct a financial and performance audit of
26 the Maricopa special health care district, which includes the Maricopa
27 integrated health system, pursuant to section 41-1278, Arizona Revised
28 Statutes, and provide a report to the governor, the president of the senate
29 and the speaker of the house of representatives on or before March 15, 2009.
30 The audit shall:

31 1. Identify and examine the current financial, administrative and
32 operational issues of the district and identify changes required to ensure
33 financial stability.

34 2. Identify the amount of funds generated through the taxing authority
35 of the district and how such funds are used.

36 3. Examine the personnel structure, specifically management salaries,
37 contract personnel and associated costs and evaluate whether this structure
38 is consistent with and necessary for the execution of the statutorily
39 designated duties of the district.

40 4. Identify all sources of state and federal funding received by the
41 district and how these funds are used.

42 5. Examine and identify the amount of medical assistance furnished to
43 indigent individuals who are uninsured and ineligible for medicaid and other
44 health service programs and identify policies that have changed to restrict
45 services to this population.

1 6. Examine the amount of uncompensated care provided on an annual
2 basis by the district and measure this amount in relation to the amount of
3 uncompensated care provided by facilities of the district before the
4 formation of the district, to the amount of uncompensated care provided by
5 facilities of the district before the implementation of proposition 204, and
6 to the amount of uncompensated care reported by other private hospitals in
7 Arizona and public hospitals in other states.

8 7. Recommend programmatic, administrative, financial and operational
9 changes to ensure financial stability, improved accessibility and effective
10 health care delivery.

11 Sec. 23. Healthcare group; employer groups; continued
12 eligibility

13 Notwithstanding section 36-2912, Arizona Revised Statutes, as amended
14 by this act, an employer group of one eligible employee that was enrolled in
15 healthcare group before the effective date of this act may continue to be
16 enrolled in healthcare group if the employer group continues to meet all
17 other applicable requirements for enrollment.

18 Sec. 24. Healthcare group; temporary enrollment limit

19 Notwithstanding section 36-2912, Arizona Revised Statutes, as amended
20 by this act, beginning August 1, 2008 and ending June 30, 2009, healthcare
21 group shall limit employer group enrollment to not more than five per cent
22 more than the number of employer groups enrolled in the program as of July
23 31, 2008. Enrollment priority shall be given to uninsured groups.

24 Sec. 25. Purpose

25 Pursuant to section 41-2955, subsection B, Arizona Revised Statutes,
26 the legislature continues the Arizona pioneers' home and disabled miners
27 hospital to provide services to long-term residents and miners of this state.

28 Sec. 26. Retroactivity

29 A. Sections 7 and 8 of this act, relating to the Arizona pioneers'
30 home and disabled miners hospital, are effective retroactively to July 1,
31 2008.

32 B. Section 16, subsection F of this act, relating to hospitalization
33 and medical care contributions and section 18 of this act, relating to
34 proposition 204 administration, are effective retroactively to June 30, 2004.

APPROVED BY THE GOVERNOR JUNE 27, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 27, 2008.